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COMMITTEE ON HEALTH AND HUMAN SERVICES

January 26, 2005

LB 259, 85, 193, 204, 258

The Committee on Health and Human Services met at 1:30 p.m. on January 26, 2005, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 259, LB 85, LB 193, LB 204, and LB 258. Senators present: Jim Jensen, Chairperson; Dennis Byars, Vice Chairperson; Doug Cunningham; Philip Erdman; Gwen Howard; Joel Johnson; and Arnie Stuthman. Senators absent: None.

SENATOR JENSEN: Welcome to the Health and Human Services Committee. I would like to briefly go over a few of the procedures that we will be following today, and then introduce you to the senators that are here, and we'll then take up the bills that we have. First of all, if you are testifying, there is a sheet over here on this little table. Please fill that out before you come up to testify, then drop it in this little wooden box on top of the table. If you are representing yourself, make note of that. If you're representing an organization that you're with, also make note of that. If you do have papers that you'd like to pass out to the senators on the committee, the correct number is 12, but we'll take any number that you've got and we can duplicate those. Please know that these proceedings are transcribed and recorded. If you're carrying a cell phone, I would encourage you to shut the ringer off and put it on vibrate or whatever mode that doesn't make noise. And then, when you do come up to testify, also give us your name, spell your last name for us; again, so that we have that proper on our transcription. We first of all take testifiers in support, the proponents; then we take all testifiers who are opponents of a bill; and then we take the neutral testimony, if there is some. The senator after the introduction of the bill and after we have heard all of the testifiers may make a closing statement if he/she wishes to, or may waive that. And that's reserved only for senators. With that, I'll introduce you to those that are here today. To my far left is Senator Gwen Howard from the Omaha area; the next senator is Senator Joel Johnson, who is from Kearney; and next to him is Joan Warner, who is the committee clerk. I'm Jim Jensen from Omaha, serving as chairman; to my right is Jeffery Santema, who is the committee counsel; and next to him is Senator Dennis Byars, who is the Vice Chairman of the committee. There will be

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other senators that will be joining us; please know that this is bill introduction time, and so if someone, first of all, gets up and leaves, don't feel offended. They will be introducing a bill somewhere else, or they may already be there and will join us. With that, I think we're ready to begin, and Senator Dwite Pedersen is here to introduce the first bill, LB 259. Welcome, Senator.

LB 259

SENATOR Dw. PEDERSEN: Thank you, Senator Jensen and members of the Health and Human Services Committee. I am Senator Dwite Pedersen, of the 39th Legislative District, and I'm here today to introduce to you LB 259. This bill was brought to me by a group of concerned citizens who have been meeting regularly to come up with a plan for addressing the lack of qualified and well-trained staff to deal with young people in out-of-home care in the state of Nebraska. Those who follow me in support of this bill will be able to tell you that these concerns have been well documented and are leading once again to more and more troubled youth being sent out of the state of Nebraska, in order to receive necessary treatment. This out-of-state care is provided at a huge cost to the taxpayers of this state. In order to address these concerns, this group of concerned youth workers have been meeting regularly during the interim, and LB 259 is the culmination of their meetings. This bill was prepared with the able assistance of your committee legal counsel. Thank you, Jeff Santema, for all of your help and all that you have done during the past few months to assist this group and me in preparing legislation for introduction. It's been a great help. One of the problems is that a consensus needs to be reached with regard to exactly what type of training youth service workers ought to have. As with most issues in the health and human services area, there are varying opinions as to what should be done. That is why LB 259 proposes that a statutory working group be appointed to develop recommendations for the training of youth service workers. This working group would allow persons from the Nebraska Commission on Law Enforcement and Criminal Justice, the Department of Health and Human Services, and the Department of Health and Human Services Regulation and Licensure in consultation with the Nebraska

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Coalition for Juvenile Justice, to develop recommendations for the training of persons providing care and treatment to youth in out-of-home placements. The bill provides that the work group would submit a plan for the statewide provision and funding of training for youth service workers to the Governor and the Legislature on or before December 1, 2005. The specifics of the plan are outlined in the statement of intent, but include identification, curriculum, statewide availability of training, certification of both providers and youth service workers, adequate funding, oversight and competency assessments. Once the plan is presented, this section of law would be terminated and a new bill outlining the recommendations would need to be introduced. I urge you to listen carefully to the testimony of those who work closely with youth in out-of-home placements and to take steps now to implement a plan that would help to guarantee uniformity in training for those who work with very difficult cases. It is important that those who work with youth who have been removed from their homes for one reason or another are well-trained and capable of providing the proper care and treatment of those who have been placed under the state's supervision. We owe this to our young people, nothing less. Thank you for your consideration of this bill, and if you have any questions, I would try and answer them for you.

SENATOR JENSEN: Thank you, Senator Pedersen. Senator Erdman has a question.

SENATOR ERDMAN: Senator Pedersen, thank you for your testimony and your service here in this area. The question that I would have is the coalition that's referred to in Section 2 of the bill. Is that the Nebraska Coalition for Juvenile Justice that's referred to, the existing law?

SENATOR PEDERSEN: Yes.

SENATOR ERDMAN: And then, this work group that would be created, would that be a different group?

SENATOR PEDERSEN: That would be a different group, and these people would be part of it.

SENATOR ERDMAN: Okay. Would it--is it possible to

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accomplish the same goal under the existing coalition, or are you looking to do a broader...I'm seeking to understand why we have a group, when it looks like, with the exception of the additional language here, adding another group, and I'm just seeking that information.

SENATOR PEDERSEN: I think that it would be broader...

SENATOR ERDMAN: Okay.

SENATOR PEDERSEN: ...and hopefully bring in some of the people who have to work with these--that run these institutions and places where these kids are placed.

SENATOR ERDMAN: Okay.

SENATOR JENSEN: Yes, Senator Howard has a question.

SENATOR HOWARD: Senator, could you elaborate on the difference between these individuals and the internal case managers? Both deal with the same population of youth.

SENATOR PEDERSEN: The case manager? Which case manager?

SENATOR HOWARD: Within Health and Human Services System.

SENATOR PEDERSEN: Well, the case managers who are more the social workers, who follow each individual case. We're looking at the people who actually work in these institutions and take care of these kids.

SENATOR HOWARD: Such as...

SENATOR PEDERSEN: Out-of-home placements, let's say Uta Halee, for instance. I think they have a training program of their own, but there's a lot of different homes and placements that do not have training. And that's what we're looking for the most. We can use Omaha Home for Boys--they've got a spectacular training program, but there's places who don't, to take care of those people who work directly with the kids in their supervision, live in their housing areas.

SENATOR HOWARD: So it would be, then, a combination of

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private and public facilities that you're looking at?

SENATOR PEDERSEN: Um-hum. It's so often that we end up, Senator, that in some of these homes who take in quite a few different kids--mostly because of what they pay, they can't afford to pay very good--but they hire people off the street that have had no experience, no training, to supervise the kids. Now they do the best they can to police that, but we don't have anything set up to make sure that they are certified or licensed or whatever we're looking for, whatever the committee would come up with.

SENATOR HOWARD: Is this with the staff of the residential youth; is that...

SENATOR PEDERSEN: Residential living, yes.

SENATOR HOWARD: Thank you.

SENATOR PEDERSEN: You bet.

SENATOR JENSEN: Thank you, Senator Howard. Senator Pedersen, the pay certainly is an issue. The turnover also must be great for these individuals who are providing this service; is that also true?

SENATOR PEDERSEN: Unbelievable. Yes, it is quite...it's a big turnover. Now the places that pay a halfway decent wage and have decent training and stuff like that, there isn't so much. But even then, they still have a lot of turnover, because of the pay.

SENATOR JENSEN: So this training would have to be set up that it's ongoing and rotating continually?

SENATOR PEDERSEN: We were more interested in the fact that the state has some kind of an idea of what kind of people, you know...they have some program and know that they've had something, that are taking care of these individuals. It's been such a big thing the last few years, our child death rate, and the problem we've had in some of the homes that take care of the mentally disabled clients, and things like that. The people that are watching them don't have any real training, and how can we ask for that without looking up

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some kind of certification or licensure?

SENATOR JENSEN: Great. Any other questions?
Senator Byars.

SENATOR BYARS: Senator Pedersen, I applaud you for bringing the bill. As you know, as you would be making this transition into training--and I'm sure as you're doing the studying you're examining this whole situation--I hope as the providers of service, I'm sure, will be mindful you will hit a period where, as you transition to those people being trained, or you have required training and those who are present employees, you'll have to make absolutely certain you don't throw the baby out with the bath water. And make sure that those workers...

SENATOR PEDERSEN: That would be my hope, Senator, but you know, obviously, that would be up...that's why the committee...why we want to bring together a committee to work on this and put that all together, and so it's done right, so it would be implemented right. And we're not here to hurt anybody or try to add more bureaucracy to these institutions. It really comes down to child safety. And when I first started at Boys Town--some of you are aware that I worked there for many years, but I came to Omaha to work at Boys Town in 1964. It was September 1. I met the director of Boys Town, and he put me in a house with 20 teenage boys, and I lived in that house for 9 years by myself. I had no training, no experience. I had never lived with teenage boys before. I'd taught school for two years in a one-room country school house on a reservation up in South Dakota, but the housing...and that's what they did back then. If you had some references, you know, and things, but we're beyond that now. I mean, this is...and we're working with much more difficult kids than we were back then, and we're working with different regulations and rules and laws across the board.

SENATOR JENSEN: Any other questions? Thank you, Senator. Will you be here for...

SENATOR PEDERSEN: I will not be closing, no.

SENATOR JENSEN: You're going to waive closing. Thank you.

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SENATOR PEDERSEN: Thank you.

SENATOR JENSEN: May we have the first proponent of this bill? First proponent? And please, if you are going to testify, come up to the front row. Thank you. Do you have handouts?

ANGELA WEIS: Yes, thank you. Good afternoon.

SENATOR JENSEN: Hi.

ANGELA WEIS: (Exhibit 1) I am Angela Weis with the Omaha Home for Boys, it's W-e-i-s. There are some handouts coming towards you. I'm sorry, there's probably four different ones that need to be passed out to everybody: Written testimony on behalf of Kevin Orr with the Omaha Home for Boys, Pat Connell on behalf of the Nebraska Association of Homes and Services for Children, Barb Velinsky on behalf of the United Way, and Dr. Joseph Evans on behalf of the University of Nebraska Medical Center. On behalf of the committee that I work with that was mentioned by Senator Pedersen, we have a steering committee that has been working for the betterment of youth care workers in Nebraska. That committee is by representation from Bellevue University, Family Service, Girls and Boys Town, Health and Human Services, Omaha Community Partnership, The Omaha Home for Boys, United Way of the Midlands, University of Nebraska at Omaha, Clarkson College, and the Douglas County Youth Detention Center. The steering committee has really just been looking for ways that they can improve training for youth care workers. As the senator had mentioned, we're talking about the line staff that work directly with kids. Currently they have 24 hours of preservice training that they're required by Licensing, with 15 hours of additional work each year. There are some guidelines as to what those hours entail, but generally agencies, especially smaller ones that don't have very much money, you find that they carry those training hours, either by staff meetings or on-the-job training and don't have, necessarily, any specific training available to them. On behalf of the committee, we would like the working group to take a look at the issues that the youth workers face. As Senator Jensen had mentioned, there's a 50 percent turnover rate of youth

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care workers nationally. And that's an alarming rate when you're talking about the people that sometimes live with the children that are in out-of-home care. The written testimony by Dr. Evans emphasizes a lot more of the statistics in Nebraska regarding children in out-of-home care, turnover rates of staff, and the impact that that makes with children. So we are in support of the work group, to hopefully come up with some ideas for the youth care workers. The things that we'd like to emphasize is that we aren't looking for more unfunded mandates. The agencies that we are trying to work for are the agencies that can't afford the training requirements that they already have, and we don't want to make this more difficult for those agencies. We're also not pushing any specific type of curriculum that we think an agency should have. There's a lot of differences between philosophies with agencies and treatment centers and detention centers, and it's important to emphasize that we aren't looking for a specific theory to be put across, but we are looking for maybe more mandated types of curriculum, things that are more specific to what youth care workers would receive. And we're hoping that the work group would be able to take a look at those.

SENATOR JENSEN: Thank you, Ms. Weis. Senator Erdman has a question.

SENATOR ERDMAN: Thank you for your testimony, Angela. You said that there is training required now. Who requires that training? Is that done by the entities, because I see in the bill that there's a request for some certification and a model for training curriculum.

ANGELA WEIS: Um-hum.

SENATOR ERDMAN: Does the department now require some training, or is it...

ANGELA WEIS: Yes. State licensing requires 24 hours of preservice training, and they also require 15 additional hours each year for youth care workers. But again, the 24 hours is fairly general in the information that needs to be presented. I have worked with a lot of small agencies and providing training. One of the missions of The Omaha

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Home for Boys--they have spent over \$50,000 in the last three years, just with this cause, in subsidizing training to small agencies. And a lot of the small agencies that we've done this work for--again, not for profit, but in order to help them--what we've found is those agencies have just done training through sitting down in a staff meeting, talking to staff. A lot of them are done in-house, without any kind of expertise or training. A lot of them don't have any kind of follow-up to see if their training is actually working, or any kind of management of it thereafter.

SENATOR ERDMAN: Thank you.

SENATOR JENSEN: Angela, on that training, so that is strictly up to the individual facility? It could be CPR training, it could be takedown training, or whatever, but there's nothing that goes across the board, that this is what it shall represent?

ANGELA WEIS: Right. And there's currently--and not to place blame at all--currently there's not a lot of follow through to see if those 24 hours are being completed. You know, who is there to monitor that? How is it being done? What are they being trained on? I worked with a shelter that their training was 100 percent on-the-job training, where somebody just shadowed another youth care worker that also didn't have training. And you know, by the guidelines, it can easily be marked down that that's the training they give the youth care workers, who are then caring for our out-of-home placements.

SENATOR JENSEN: I understand. Thank you. Any other questions for Ms. Weis? Thank you for your testimony. Anyone else wish to testify in support? For the record, we do have letters here from Dr. Joe Evans, professor of psychology, one from Barbara Velinsky, one from The Omaha Home for Boys, and also from the Nebraska Homes and Services for Children. Are there any opponents to this bill? Anyone in a neutral capacity?

TOM MCBRIDE: Good afternoon, my name is Tom McBride. I'm the executive director at Epworth Village in York, Nebraska, and really, to provide a neutral testimony in regard to Senator Pedersen's bill. I'd like it to be known that I

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like him, I respect him a great deal in his service to the state, and the care that he provides in his legislation toward children and families. You know, providers currently have requirements by, if you're licensed by the Department of Social Services, for the training hours, as indicated before--24 hours of preservice, 15 ongoing. Speaking for our agency, I don't know of a time where we've had a preservice limited to 24 hours or annual training that was limited to 15. We go way far above that. We also have requirements in Chapter 32 of the Medicaid regulations. Depending upon how you would denote the youth care workers, it could go on out to licensed mental health practitioners, who have 32 CEUs they have to earn every two years, chemical dependency counselors and accrediting bodies that also have requirements for training with this right now. Youth care workers, or youth workers, is a pretty broad stroke in definition. I was sitting there thinking how the group...who all they would encompass. And you'd be looking at youth care workers in developmental disabilities programs, in mental health programs. You'd be looking, depending upon how you put this out there, for foster parents, people working in group homes, day treatment, residential detention, YRTC. And the training necessities for all of those are different, depending upon what the program is that they're operating. I don't think that we're in an age today where we're hiring warm bodies, anybody that comes off the street. We have to go through Central Registry checks for child abuse, adult abuse, the sex offender registry check, background investigations, and speaking for ourselves and the professionalism of these people, in 2003, we had 15 percent turnover of our staff, direct care worker staff. And in 2004, it jumped to 18 percent. So what we're seeing is, we're seeing professional people come out in these jobs anyway. A Chapter 32 requirement for working in residential treatment centers, 75 percent of your staff have to have at least a bachelor's degree in a human services related degree field. I am all for standards and professionalism, but the other thing that comes to my mind in this is the cost. And when you are working with those smaller agencies or an agency such as ours, where we could have up to a hundred people that would fall into the youth worker category, the cost of a certification program is something that concerns me, but...and then also, would this...if we are using volunteers

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out of the community to work with children in any kind of supervisory capacity, today they have to receive the same training as our regular staff, and would that evolve out to them? I appreciate the...you know, his dedication to ensuring that we have quality people working for agencies and with the children in out-of-home care, and would hold that high, but there are some concerns that I think that need to be addressed via the bill.

SENATOR JENSEN: Thank you, Tom. Thank you for the great work that you do here for the citizens. Would you be willing, or your organization be willing to work as part of this organization, if it was to...

TOM McBRIDE: Certainly.

SENATOR JENSEN: Great. You know, I just might mention that certainly we had an incident here last year in Lincoln in a group home. And upon some of that investigation, we did find that there were individuals--the training was up to the operator of the home. And in some cases, there really wasn't a lot of training. In other cases there was some rather in-depth training. But the main thing, I think, is to ensure that the kids, all those who are in care, have at least some--maybe it might be minimal--and your organization, I think, goes far beyond that, but that there at least be some minimal requirements, and again, without raising that expense.

TOM McBRIDE: I agree with you, wholeheartedly.

SENATOR JENSEN: Yeah. Great. Any other questions from the committee? Thank you for coming forward.

TOM McBRIDE: Thank you.

SENATOR JENSEN: Anyone else in a neutral capacity? If not, that will close the hearing on LB 259, and we'll open on LB 85. Senator Byars is here to tell us about the Burial Pre-Need Sale Act.

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SENATOR BYARS: Senator Jensen, members of the Health and Human Services Committee, thank you for hearing LB 85. I am Senator Dennis Byars from the 30th Legislative District, B-y-a-r-s. The 30th Legislative District is the "caring and sharing" district. Currently, a person who is making preburial arrangements can only set aside \$3,000 in a trust for burial needs. LB 85 increases the amount for preneed burial set aside from \$3,000 to \$4,000. Now this set aside hasn't been increased since 1983. This is when Senator Marge Higgins was here, and I guess if we don't remember Senator Higgins, then it's probably time to increase the set aside. Estimated costs for a typical funeral today obviously vary, depending on the services, but averages, we're looking at somewhat over \$7,000 now for a burial. In this bill we have also put in a cost-of-living adjustment, so that the amount can be adjusted annually, based on the consumer price index, and I think that makes much more sense than just waiting for a happenstance that would come along for us to increase it, as we're doing today. There is some question mark--and I want to make it clear--relative to who would be making the cost-of-living adjustment. I think the Department of Insurance has felt that that would be something that would fall on them as an obligation. It is our feeling that it should be maintained in the Department of Health and Human Services, and that is fine with the Department of Insurance. They would just as soon not have that responsibility. If we do need to make any changes as far as language is concerned to make that definite, we're certainly amenable to doing that. But it's basically that simple. There will be some funeral directors who will follow me, who will talk to you a little bit about their circumstances as we do more preburial arrangements, and I would very much ask that you would move LB 85.

SENATOR JENSEN: Thank you, Senator Byars. Senator Erdman has a question.

SENATOR ERDMAN: Senator Byars, have you reviewed the fiscal note on this bill?

SENATOR BYARS: Yes, I have.

SENATOR ERDMAN: And are you comfortable with that? And could you explain that, so that...

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SENATOR BYARS: I'm very comfortable. There is no fiscal note on this bill.

SENATOR ERDMAN: In spite of the \$218,000 fiscal note that the department or whoever has given us on this?

SENATOR BYARS: No, I'm not familiar with that, and I've not seen that.

SENATOR ERDMAN: Oh, all right. Well, I'm glad I'm reading the right bill. I guess it appears that they're assuming that the increase in the irrevocable trust would not be counted towards the asset test in the Medicaid program and could increase the expenditures of general funds by \$90,000 in the first fiscal year, and \$150,000 in the next fiscal year. So I didn't know if you had seen that.

SENATOR BYARS: No, I certainly had not seen that, but I think that's certainly to be taken into account. Thank you very much. I certainly think it needs to be taken into account, but I also think that only from a fairness standpoint, as we develop other legal means for people to make certain that they have adequate funding set aside for this type of circumstance. It still needs to be done. I think we may set aside money for a burial, for a funeral service for ourselves or our family, when we wouldn't set aside money for anything else, as far as our living arrangements are concerned. And I did not see that fiscal, but thank you very much.

SENATOR ERDMAN: I have a feeling you'll be around later. We can talk about it some more.

SENATOR BYARS: I think I will be.

SENATOR JENSEN: Yes, Senator Johnson?

SENATOR JOHNSON: Yeah, Senator Byars, would you explain to me a little bit more, the two different numbers. You said it's about, I think, \$4,000; you're going to increase it from \$3,000. And then...but the average funeral is \$7,000. What's the discrepancy between those two numbers? Is the \$4,000 kind of a down payment, if you don't mind the pun?

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SENATOR BYARS: Yes, I think everybody understands this will not cover the average cost of a funeral, but it's an attempt to get some money set aside to a point where people would be able to care for the majority of it. And the funeral directors can possibly address that better, Senator.

SENATOR JENSEN: Any other questions of the "caring and sharing" district representative? (Laughter) Don't see any. Thank you very much. Are there proponents to LB 85? Proponents? Please come forward.

WILLIAM LAUBER: (Exhibit 1) I have a copy of my testimony. Thank you.

SENATOR JENSEN: Anyone else wishing to testify, please come forward to the front row, if you could. May I see a show of hands of anyone who wishes to testify on LB 85? Anyone else? Only see just this one.

WILLIAM LAUBER: Good afternoon, Chairman. Good afternoon, members of the committee. My name is William Lauber, L-a-u-b-e-r. I'm past president of the Nebraska Funeral Directors Association and I'm currently serving on the National Funeral Directors Association's policy board, where we set policy on a national level. I also own funeral homes in Milford, Friend, and Beaver Crossing now for the past 14 years, and I'm a licensed funeral director. In the testimony this afternoon, you can follow along if you like. Prefunding one's funeral in advance of the need is something that is not new. People across the country have, as a part of their estate planning, placed money in an escrow account of some type for many years now. Possibly your parents or your grandparents or your brother or your sister or aunt or uncle would use vehicles such as savings accounts and life insurance policies to help pay for final expenses. However, as these folks would age, the costs associated with long-term care and other end-of-life issues exhausted their resources, which required them to apply for public assistance. When people come to us funeral directors to prefund a funeral, it doesn't necessarily mean that they're applying for assistance, but I just want to make sure you're aware of that point. It's certainly a portion of our percentage of prearrangements, are folks that are indeed

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applying for assistance, but that's not the majority of those who come in. Since the 1960s we as funeral directors have deposited people's hard-earned money for their funerals with basically what we would call at that time "payable upon death" certificate of deposits at the bank, and we withdrew them at the time of their death. And we would use those funds to pay for that funeral. In more modern times, however, we now use what we call bank trusts that are funded with CDs, or we would use certain life insurance products designed specifically for funeral prefunding. And these life insurance products would have like a inflation rider to it, which would have an increasing death benefit to it. Then in 1983 or so, Medicaid guidelines placed a maximum limit of \$3,000 on irrevocable funeral contracts. In 1987, the Nebraska Burial Pre-Need Act continued this limit of \$3,000. It has now been over 21 years without an increase and of course, obviously, our operating costs have increased since that time. Also, the HHS's spousal impoverishment guideline for Medicaid qualification has a CPI index built into it, so it would make some kind of sense to possibly increase this, or insert this into our irrevocable funeral guideline as well. Now we as funeral directors do not advocate that prefunding is for everybody. However, in several instances, it is a benefit to do so. People will come to us and they'll say, listen, Mom or Dad is in a nursing home, and we need to come in before her resources become depleted and take care of her funeral. And so, they would do so, and then what happens most of the time is, is after the nursing home and other medical costs take her 80-acre farm and other assets, then before those assets become down to around the \$4,000 level, the social service worker will say to these children, listen, your mom has, say, \$14,000 left. Before it reaches \$4,000, you need to go and prefund your funeral with your local funeral director, because along with the house and a vehicle, a funeral is excludable from the assets, when qualifying for Medicaid. So we'll get those people in. Also, we'll have a lot of people coming to the funeral home who will prefund--they don't necessarily have a need to qualify mom or dad for Medicaid, but suddenly, two or three years down the road, mom or dad will have a catastrophic health illness such as a stroke, Alzheimer's, what have you. They're institutionalized in a nursing home, and then eventually, those resources become depleted and then later they will

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apply for Medicaid. Then the social service worker will come in and say, do you have a prearrangement or prefunding contract on so-and-so, and then we will fax that information to them, to prove that they had done that. Now with the popularity of prefunded funerals increasing--not necessarily because of the costs of long-term care and everything, but it is just a benefit that people want to do--we've also seen, which is good, a decrease over the years--in the past 20 years--a decrease in what we call county funerals or indigent funerals. And this is, of course, a county commissioner, by basis from county to county, and they assess what they believe they could pay for a county funeral for the funeral homes in that county. We have seen a decrease in this; however, we fear that if this irrevocable limit of \$3,000 isn't addressed, then we're going to start seeing this thing start to rise again. And I don't think we want to see that. Families want their choices for their funeral met, and with this \$3,000 limit, it's really limiting the funeral homes now, to make sure that these wishes are met. And so, we really need to start addressing it. It's like Senator Byars mentioned, it's been a long time, over 21 years, and it's hard not to conduct a funeral with families who want just a traditional, average funeral of \$7,500, with this \$3,000 limit. Now Senator Johnson, you did mention the \$7,500 is the average funeral, and you mentioned the \$4,000 is what we're proposing, and that we have the \$3,000 limit now. Three thousand is a limit where we could only...can't go over that in professional services. When someone is applying for Medicaid, HHS requires us to set aside the contract in a certain way, in which \$3,000 of the total funeral goes towards the services of the funeral home. All the rest of the money goes into the merchandise of the funeral, like the casket, the vault, the printed materials, clergy honorarium, grave opening costs, those kinds of things. So in my funeral home, for example, my average last year was \$7,600. My service charge, my professional services, was \$3,200. So if someone came in and said, we need to apply mom for Medicaid and we want to get this exclusion, I could only put \$3,000 down on my professional services. And we as funeral directors across the state would try to scramble somehow to put \$200 over on the revocable side, and it's getting confusing and complex with social service workers and directors of HHS, and funeral directors and the family, the client, as to what

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really needs to be done to satisfy their needs. If we had a \$4,000 increment, if this was passed, 99 percent of the funeral homes in the state of Nebraska; in fact, 99 percent of the funeral homes in the country, are under \$4,000 in professional services. The average, I would say, statewide for professional service charges in Nebraska, is around \$3,200, \$3,400. Some are nearing \$4,000, so we thought that if we don't address this now, it's just going to get really, really difficult to satisfy clients who worked hard all their lives and want to put money down for their mom or dad's funeral, or for their own funeral, and then find out that the qualifications, if and when that should ever come where they have to apply for Medicaid for nursing home care, they can't. This is all complex and it can't get done, because of this \$3,000 limit that's been set back in 1983.

SENATOR JENSEN: Thank you for your testimony. Can I ask if...does the cost of a funeral pretty much mirror the cost-of-living index, or are you above that?

WILLIAM LAUBER: We're right around three percent. I'd say...might be four, or as high as five, maybe as low as one, but three is the average.

SENATOR JENSEN: I might say I really endorse that prepaying. In a time of just the death of a loved one, and then having to deal with that is bad enough. If you've made those plans, it sure makes it easier. But if I were to put \$7,500 into a program and six, eight years later, is that still going to be enough to...of course, you would put that in an interest-bearing account...

WILLIAM LAUBER: Right.

SENATOR JENSEN: ...that hopefully...of course, interest has not been too great, lately.

WILLIAM LAUBER: That's correct, and a lot of times, in the 1980s, we would guarantee, with the CD rates at 7 percent, 5 percent even, but when they dropped, in 40-year lows now, around 2 percent for a three-year certificate of deposit, it makes it very difficult for the growth of this prefunded account to grow. And so a lot of times we have an understanding with the families that this may or may not

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keep up with inflation and the interest. When interest rates started to drop below three-and-a-half percent, I made sure all my families were aware of that fact, that it probably may or may not. But before these interest rates were so low, 99 percent of the time, there was actually excess money in these accounts, for refunds.

SENATOR JENSEN: Thank you for that. Any questions from the committee? We thank you for your testimony.

WILLIAM LAUBER: Can I say one more thing?

SENATOR JENSEN: Sure.

WILLIAM LAUBER: There is a concern from the Health and Human Services aspect that if we increase this to \$4,000 from the \$3,000, that it might allow some Medicaid applicants to qualify earlier, you know, than they normally would. If I interviewed all the funeral homes across the state of Nebraska, the funeral directors, the owners, and said, if this bill passed and we went from \$3,000 to \$4,000, would you see an increase in the number of people prefunding their funerals? And they would laugh at me and say, heavens no. Most of the time when we talk about Medicaid qualifications, it's usually the number of people in our state that are entering nursing homes. So if you follow the statistics of people entering nursing homes, it's going to mirror the number of people who are prefunding, because they are trying to apply for Medicaid. So it's not going to increase the number of people if we do this, who are going to say, well, now that this bill is passed, we're going to go and get grandma's funeral prefunded. It's going to be some kind of catastrophic health illness that's going to necessitate them. It is something that we really can't advertise. We can't go out and say, prefund your funeral today, even though some funeral homes are attempting to do that. I mean it's getting...you really can't do that successfully. And so even though there is a fiscal concern, even with that amount of \$218,000 in total funds in '05-'06, I bet you it's really only about half of that, when everything is said and done. So if we're only looking at \$110,000, that's really not a lot of money, when you look at it.

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SENATOR JENSEN: Okay, thank you. No other questions? Thank you for your testimony. Anyone else who wishes to testify in support on LB 85? Anyone in opposition? In a neutral capacity? Seeing none, Senator Byars, do you wish to close?

SENATOR BYARS: Thank you, Senator Jensen. I should have been prepared, have looked at that fiscal and please forgive me, I was not. As I look at that and see where the assumptions are made by Legislative fiscal, what they have done is assumed that by people setting aside this amount of money, whether it's \$3,000 or \$4,000, they're estimating 10 people a month who would need to go on Medicaid a month earlier, which would cost them between \$3,000 and \$4,000. What they do not take into account is if those same people go on Medicaid and they don't have any prearranged burial funds, then it would come back to the county burial fund in the end, to bury these individuals anyway. And I don't...they have not taken that into account, as far as the cost also. And the cost division, obviously, is what is the state share of Medicaid, the federal share, those aren't all general funds. But they don't take into account what we're paying already for those people who don't do any set aside, as far as county funds are concerned. And I know Senator Stuthman would remember that, as any of us who have sat on a county board remembers. We've raised the level of those funds over the years, so please forgive me for not being prepared, but I think it's very logical and makes some sense.

SENATOR JENSEN: Senator Erdman has a question, Senator Byars.

SENATOR ERDMAN: First of all, I think you're forgiven. The question I have is more of a practice, I guess. If we set it at \$4,000, we know that at any given time in the future it would be \$4,000. At that point does the department--is there a date that they would then set the new rate? It says that they have to use the information from the previous 12-month period ending August 31, but it doesn't say, as I read it, when they would determine the amount available, or the amount set for the new amount, instead of the \$4,000, it would be the \$4,000 plus 3 percent. At what point do they raise that? Is there a window there, or should we put a

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date that specifies, after a time period, you know, to give them some flexibility so that people would know when that would be? Or...I guess I'm seeking clarification on how you actually change the qualifying amount.

SENATOR BYARS: I think maybe it could be more clear, as I'm looking at the new language. It would look at the consumer price index as published, at the close of the 12-month period ending on August 31 of each year. I would presume this would be a point in time when Health and Human Services would make the change, when the price index changed also, but we can make that more clear.

SENATOR ERDMAN: Right, because at that rate, would it be--so would they then make the change annually on September 1, or would they make the change annually on January 1, just so that it would be clear.

SENATOR BYARS: I think it's appropriate to make it clear. I would be open to that.

SENATOR JENSEN: Any other questions? Thank you, Senator Byars.

SENATOR BYARS: Thank you, Senator Jensen.

SENATOR JENSEN: That will close the hearing on LB 85, and Senator Thompson is here to introduce LB 193. Welcome, Senator, back to the Health and Human Services Committee.

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SENATOR THOMPSON: (Exhibit 1) Thank you. It's great to be here. Thank you very much. For the record, I'm Nancy Thompson from District 14, and I'm going to do something a little different from what I normally do when I present a bill. But I think it's important to understand the history of both of these programs. I'm going to give you a little history in a nutshell of how we got here. Back in the late '70s and the early '80s, there were a lot of court cases that brought juvenile reform across the country. At that point in time, juveniles were being locked up in county jails; they were, for all intents and purposes, kind of in

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with the adult population. And so a lot of child advocates brought suit and the federal government responded in a couple of ways. One of them was to create the Office of Juvenile Justice and Delinquency Prevention and to provide grants to the states. Nebraska chose to comply with the requirements set down and standards set by the federal government, and as a result, we have in the Crime Commission, the leadership for a lot of the juvenile reform. And as a county commissioner, I actually remember testifying at some of the hearings that were held in the state at the time, over how we were going to handle the new requirements, and--for both the reason that the federal government was telling us we had to, but also because it was the right thing to do. One of the things that came from that was to have the Crime Commission have a fund to make grants to local...to counties or groups of counties, to be able to address some of the things that needed to be put in place in communities, to keep kids, number one, out of the adult jail, but also to make sure that we were putting an array of services in place, in addition to just separating them through sight and sound from the adult population. And we received federal funds and Senator Scofield at the time, I believe, was the one who encouraged the state to start putting funds into this juvenile grant account, to be able to help the counties resolve some of the problems that they had. When I got to the Legislature, we were on the cusp of doing some other kinds of reform to the state level services. And my first year here I chaired a committee of people from across the state, to look at our state system. And we have done a number of things to improve our processes and how we handle kids when they're committed at the state level. The Governor, about five years ago--four years ago--took a look at some of those studies and also called a group of people together and said, what do we need to do? That group of people said to him, well, the thing we need most is to do more on the county level, at the prevention level. And at that point in time, Senator Jensen introduced a bill, and that was in 2001, then, to create this county juvenile services aid program, which you'll note--if you look for this one page that I passed out--the description of the commission grant program and the county juvenile services aid program and what it's for, is virtually identical. And those of you who were here in the Legislature at the time may remember that we discussed this

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extensively on the floor of the Legislature, that we're basically creating another program, doing the same sort of thing. The difference between the Crime Commission program is that it is a grant program, and the second program was more formula-based, once you met certain criteria. That program has been running for a while now, and I was contacted by people who work in this area, at the county level, and the people from the grant program committee--which is the state's juvenile advisory commission that is housed at the Crime Commission; it's called the Nebraska Coalition for Juvenile Justice and it originally started as the advisory to the county grant program. Several years ago the Legislature gave it the additional responsibility of being the body in the state to make recommendations to the Legislature. And that was through a bill that was passed several years ago. I'm getting to the bottom line, but I felt it was important to know the history of how both of these programs started. I supported the Governor and the Policy Research Office that wanted this separate program administered by the Office of Juvenile Services at the time, and I went against, probably what a lot of people in the system were extremely worried about, and that was that this made more sense to go through the Crime Commission. And it's been there for several years now. And it really was one of my mistakes in my legislative career, of which I'm sure there are more than one. But I was so enthused and thrilled to have a Governor be interested in juvenile justice, and even though he wanted to create his own new program that maybe, if I were being more rational about it, made more sense to go to the Crime Commission--which it always held the lead and always had done the work in the juvenile justice area, that had the relationships established and the experience, I went along with this and I supported it. I've changed my mind, and I think we need to correct this. This isn't a huge bill, but it would do a lot to make our system of granting money to the counties more efficient and effective. It complicates things by having two separate programs, and there are people that are going to testify behind me, who are supporting this effort. It was brought to me. Some people won't be here; their letters are here. The juvenile court judges' association supports this transfer. I'm not sure if the Douglas County Board is going to be here, but they have a letter, and also Voices for Children has a letter. The

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Crime Commission is available to, in a neutral capacity, to be able to answer any questions about their administration of this program. And I have an amendment, one that is attached to the red sheet here. One is a drafting error; it reverts the money to the wrong fund, and we just want to make that clear. The second is a little more significant, but it was brought to me by the counties, and that is on page 4 of your green copy, there's a formula established for distribution of the money. It says the formula "may take into consideration" and it should be "shall take into consideration" and these were things that were developed at the time of the previous bill, the number of juveniles per county, the minimum funding needs. The bill also takes away the county match. The counties have had a very tough time trying to figure out how to have hard match. We've done soft match, which in the grant business is a way that you can count certain things that you might already be spending the money on. But we want to encourage counties to implement their juvenile services plans, which they were required to do by the Legislature on an annual basis, to the Crime Commission. And it also sets a minimum funding level of \$2,500. There are smaller counties; if you get much less than that, it's tough to figure out how you're going to be able to manage it. What this does is take the fund that we feel is an important and valuable thing and say, it just makes more sense to put both funds together and operate it out of the same agency. Maybe it would be fine for us to let it go at the state level, because it isn't really a problem for the state level. But it is a problem for the people in the communities who are working on this, for the counties to have to go to two separate locations. So that's essentially what the bill does, and I'd be happy to answer any questions that you may have.

SENATOR JENSEN: Thank you, Senator Thompson. Any questions for any committee members? Senator Howard.

SENATOR HOWARD: Will this result in any loss of any FTEs in the bargaining unit?

SENATOR THOMPSON: Pardon me?

SENATOR HOWARD: Any individuals, any FTEs--will they be able to...

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SENATOR THOMPSON: This is county funds.

SENATOR HOWARD: Okay, but there will be no loss in individuals being transferred, for one?

SENATOR THOMPSON: The Crime Commission will be using their existing staff to do this. I--there wouldn't be a loss of--I don't know. You can ask HHS--they have sent a letter against it--if they lose an employee. The Crime Commission, if you'll note the fiscal note, already runs the program and has staff in place to do it. It was one of the arguments against giving it to OJS in the first place. And to be quite honest with you, the people from the Crime Commission worked very, very, very, very hard to try to help OJS, and they loaned a lot of staff to help them get this in place. But I don't know. I mean, if HHS has a person working full-time on it, they'd either reallocate them to another purpose or--I don't have any idea. You'd have to ask them when they come up, if they're here.

SENATOR JENSEN: Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator.

SENATOR JENSEN: I'm sorry, were you done, Senator Howard?

SENATOR HOWARD: Yes, thank you, Senator.

SENATOR STUTHMAN: Okay, thank you. Senator Thompson, this \$2,500, that money is for doing the planning, right? Making a plan?

SENATOR THOMPSON: Yes, um-hum.

SENATOR STUTHMAN: Establishing a plan, given to the counties to initiate a plan?

SENATOR THOMPSON: Right.

SENATOR STUTHMAN: Is there--that's a minimum. What would be a maximum, or is that all they're going to get?

SENATOR THOMPSON: You know, when we first put this

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together--I'm going to have to look at the--you know, I'll come back on closing. We were encouraging--the state--before you were elected to the Legislature, we passed a bill requiring every county to have a juvenile services plan, and they had a date certain to do that. And we put money for planning services to help that process along. Some of the counties, you know, got it done. We didn't, like, criminalize county commissioners if they didn't get it done, if you know what I mean. It's one of those things that was proactive. The Crime Commission worked on that. And what we do know how is that doing this one time isn't enough. People need to update their plans, especially because once they have these in place, not only can they apply for state grants, but they also can apply for other foundation grants and federal grants and other things that are out there that could help them. And rather than just stop that, we'd like them to be able to have continuing money to be able to have help. Lots of times putting this together they need a facilitator, they may hire someone from a local community college, university, or someone to facilitate and write it up, if they don't have someone within their county government that does that sort of thing. And so, this would allow some ongoing funds for that purpose, and recognizes that it's unrealistic to do it on a proportional basis.

SENATOR STUTHMAN: Yes, this is the concern that I have, because when I was a county supervisor, we did go through that process of receiving that money, establishing a plan, and I was kind of wondering what this was. I don't remember the dollar amount that we received on the county level, but I do remember going through establishing a plan on the juvenile.

SENATOR THOMPSON: Good for you. Great. I will check that; I'm foggy in my memory. I'm thinking that it was \$2,500 to \$5,000 or something like that, but we did put some initial money to try to help counties be able to hire some resources to get that done.

SENATOR STUTHMAN: I don't think it was over \$2,500.

SENATOR THOMPSON: Yeah, it may not have been.

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SENATOR STUTHMAN: I don't think so. Thank you.

SENATOR THOMPSON: Um-hum.

SENATOR JENSEN: Thank you. Any other questions from the committee? Thank you, you will be here for closing?

SENATOR THOMPSON: Yes, I will. Thank you.

SENATOR JENSEN: Yes. Anyone else wishing to testify in support of LB 193, please come forward.

TOM MCBRIDE: (Exhibit 2) Thank you for the opportunity to be here to provide testimony in support of Senator Thompson's Legislative Bill 193. I am providing this testimony as a private citizen, a provider of mental health/behavioral health services to young people in this state, and I'm also the chairperson of the Nebraska Coalition for Juvenile Justice, which is the state advisory group federally mandated to oversee the provision of juvenile services in Nebraska. And I offer that information, not as a representative of the state advisory group, but only to indicate my knowledge of the effectiveness of the system. I think this proposed legislation will make more viable and increase the accountability and effectiveness of the process first put forth in LB 640, the County Juvenile Services Aid Program. The County Juvenile Services Aid Program was a terrific step forward for the state, and with the changes proposed in LB 193, it can now be improved. The Crime Commission does by design the elements put forth in the bill that were originally assigned to the Department of Health and Human Services System. Despite the positive efforts of those staff at HHS, improvements to this process can and will be made with the proposed LB 193 changes. The Crime Commission staff works with grants and programs closely associated with the process as set forth in the original legislation. Via the Crime Commission, the Coalition for Juvenile Justice is federally mandated to develop and update annually a three-year plan for juvenile services. This plan not only addresses the four core measures for compliance, but also drives the visions and identifies more specifically the immediate needs of juvenile services statewide. In September of 2004, Anthony J. Corio, who is the Office of

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Juvenile Justice and Delinquency Prevention program in Washington, was in Nebraska for an on-site program monitoring visit. In part his follow-up letter detailing his findings stated, "Nebraska is on track in administering the JJDP programs consistent with the priorities and program/purpose areas described in the State's 3-year comprehensive plan. The State's approach, guided by the advice of the Nebraska Coalition for Juvenile Justice, for utilizing available funding streams across the prevention invention accountability spectrum--i.e., Title V, formula grants, challenge grants, and JABG grants--is well conceived and applied. The Crime Commission has well-organized grants administration processes overall, including clearly documented protocols. Performance measurement is integrated within the State's administration of each grant program; all subgrantees are required by the Crime Commission to include progress on performance measures within their quarterly reports." Currently the Crime Commission enhances the Juvenile Justice Coalition with the announcement of grants, grant writing training, the grant review and allocation progress, and the grant follow-up reporting requirements for programs associated with those state and federal grants. By enacting LB 193, we would see an even better ability to bring appropriate services to counties and their juvenile populations by encapsulating that County Juvenile Services Aid Program function within the planning and allocation duties the Crime Commission and Coalition already is accomplishing. Additionally, it is identified in LB 193 that any unused funds would be reallocated to juvenile services rather than disappearing within a general fund. By moving this responsibility to the Crime Commission, I also believe we'd see more accountability for the prudent application of these funds. The Crime Commission has an ingrained process of outcomes reporting and review that works very, very well. I also feel that the inherent design of the departments, the Crime Commission has a much better chance of involving those counties that have not been previously involved. Our state juvenile justice specialist and our state federal compliance monitor are each involved on a personal basis as they make innumerable contacts, site visits and compliance visits within the various counties. Mr. Corio additionally observed that "Nebraska has made improvements to its compliance monitoring system within the past few years. An increase in the number of facilities

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inspected each year and the broader geographic area encompassed by the inspections are especially noteworthy." It just quite simply makes sense to allow the process of juvenile justice planning grants and awards to lie with the department most comprehensively involved with the duties on a daily basis. HHS has done nothing wrong in the provision of these duties, but it would be best served to move these duties to the Crime Commission and the Juvenile Justice Coalition, as indicated in LB 193. I appreciate Senator Thompson's wisdom in this and the consideration of this legislative committee. And I would be available for any questions.

SENATOR JENSEN: Thank you. Any questions? Could we get a copy of your testimony there?

TOM MCBRIDE: I'm sorry. I should have handed it out first.

SENATOR JENSEN: Oh, okay. Fine. Thank you. It will be helpful in our file, I think. Any other questions? Seeing none, thank you for your testimony. Next testifier in support, please? You may proceed, if you want, and fill it out afterwards.

HANK ROBINSON: (Exhibit 3) Thank you, Senator. Please enter the appearance of Hank Robinson for the Juvenile Justice Institute at the University of Nebraska. I'm pleased to appear here in support of LB 193. I think one way to look at it is that while provision of these funds made the possibility of juvenile justice reform relevant to the counties, it's been the Crime Commission and the way they've played off the availability of those funds to the counties that's made it a reality. And to give you some insight into that, the Crime Commission to the redistribution of the federal funds that Mr. McBride just referred to, that's the real incentive for the counties to adjust the way they respond to juvenile justice problems. The County Juvenile Services Aid funds certainly provide a mechanism by which they can get started on it, but it's when those counties and the private service providers in those counties come together and apply every year in December or January to try to obtain funding for the programs they want to start, that they have to account for how they have spent those LB 640 funds and what progress they've made with it.

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The main reason to pass LB 193, as far as the Juvenile Justice Institute is concerned, is that it really falls to the Crime Commission to enforce the spirit behind the legislation that created the availability of those funds in the first place. It simplifies the enforcement of the provisions behind the funds, and essentially puts all of the levers at the hands of the Crime Commission and the Juvenile Justice Coalition, to try to really push reform forward. If you have any questions, I'd be glad to take them at this time.

SENATOR JENSEN: Thank you, Mr. Robinson. Any questions from the committee? I don't see any. Thank you. Anyone else wishing to testify in support? Anyone as an opponent? Please come forward. Is there anyone else who will testify in opposition to this bill? Neutral testimony? Thank you.

TODD RECKLING: (Exhibit 4) Good afternoon, Senator Jensen and members of the Health and Human Services Committee. My name is Todd Reckling, R-e-c-k-l-i-n-g. I'm the administrator for the Office of Protection and Safety within the Department of Health and Human Services. I'm here to testify today in opposition to LB 193, which proposes the transfer of the County Juvenile Services Aid Program from Health and Human Services to the Nebraska Commission on Law Enforcement and Criminal Justice. LB 640 established the County Juvenile Services Aid Program within HHS-OJS in 2001, with the purpose of preventing the increasing number of juveniles in secure or more restrictive settings by assisting the counties with funding to develop and implement community-based nonsecure juvenile services. The intent was to prevent inappropriate placements in more restrictive settings, distant from a juvenile's family and community, and to increase capacity for nonsecure, community-based services to juveniles. The program was the first for the state to directly assist counties financially with the costs associated with developing community-based programming for juveniles. The coordination between the County Juvenile Services Aid Program and the supervision of juveniles in the custody of the Office of Juvenile Services is important to the continued focus on a more comprehensive system for youth adjudicated as delinquent. Former Governor Johanns included this program as one of four of his juvenile justice reform bills introduced in the 2001 session, with the vision that

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this program be administered through OJS as part of our larger continuum of community-based programs and services for juveniles. We believe that the County Juvenile Services Aid Program has been effectively managed and should continue, and will continue to be coordinated through the Office of Juvenile Services. I'd like to call to your attention three specific changes in the bill that are of concern: The first, in Section 3, item 2 on page 4, lines 24-28, changes the formula for distribution of the funds. Currently the law prescribes that a formula be based solely on the total number of residents per county who are aged 12 through 18. LB 193 changes from a mandated formula to a more general statement: "The formula may take into consideration the total number of juveniles per county." Aside from concern about the permissive language regarding the formula, "may take into consideration," we do not agree with allowance for using the broader population of juveniles in determining the distribution formula. The term "juveniles" is defined in Section 1, item 7, as a person under the age of 18. Since these funds are focused on services for youth accused or adjudicated as juvenile offenders, the current formula which more accurately reflects that population would be more equitable. Another problem caused if the formula is changed to consider all juveniles is that we will need to adjust funding for counties who have now developed and are implementing services based on the current funding formula. Additionally, the proposed change in formula may include minimum funding needs for planning grants, and the establishment of a minimum funding allocation of at least \$2,500 for individual counties, if they are part of a multiple county comprehensive juvenile services plan, neither of which is currently required as part of the distribution formula. Some counties would experience a loss of funding if the formula does not take into consideration older juveniles, and if a minimum allocation is established, unless additional funding were to be added to this program. The second point of concern, under Section 3, item 2, lines 4-9. The current language focused on outcome and accountability is removed from LB 193. The current law states that aid provided to a county shall be reduced by the cost to the state of care for juveniles who do not meet criteria but are committed to the Office of Juvenile Services for placement at one of the YRTPs or a more

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restrictive level of placement. Removal of this language removes any disincentive for inappropriate placements. The intent of the County Juvenile Services Aid Program, as mentioned earlier, is to provide community-based services that would reduce inappropriate placements. Continued accountability for this outcome is reasonable, and the current language should be retained. The third point of concern is under Section 3, item 4 of the bill, lines 1-5, which eliminates the requirement for counties to provide a minimum of a 40 percent match from nonstate sources for funds received under this program. Elimination of this requirement would likely result in reductions of local financial commitments to services to juveniles and could be a loss of up to \$597,000 in funding for services. Reductions in local funding would likely be replaced by state funds from this program. We view this as a step back in the state's commitment to juveniles. Thank you for the opportunity to comment on this proposal, and I'll be happy to try and answer any questions.

SENATOR JENSEN: Thank you, Todd. Any questions from the committee? Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. Todd, can you give me an example of what is meant by a community-based program for juveniles? Is this a program that's in the community, or is this a program that is in a detention center?

TODD RECKLING: The nice thing about this juvenile program is that it's broad based, so the intent of community-based programming is a vast array. The intent of the original proposal was that there really not be bricks and mortar, or secure detention increases, or secure programming increases. So community-based, in this capacity, is a broad continuum of services. It may be things such as an assessment evaluation, drug or alcohol programming. It could be shelter care. Any type of out-of-home care services or other services. It helps the counties do diversion programs, if the county doesn't have diversion programs. So anything except the high end is pretty much available as part of the community-based. So it's trying to make that connection with the local communities.

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SENATOR STUTHMAN: Do a lot of local communities have this in place already, or aren't there many of them up and going?

TODD RECKLING: I can give you a little history--we started, actually we received the money and started funding the program in '02-'03. So the first year we had approximately 56 counties that applied for the aid program. Of those, approximately 49 ultimately qualified. The reason that the other ones didn't qualify was that they didn't have, as you heard referenced earlier, the comprehensive juvenile services three-year plan in place. This past year, we've increased the funding to approximately 60 counties, and we're anticipating this year--we're probably at least, so far, about 60 counties again. There have been attempts to send letters and make phone calls to the counties not participating in the program, to gain further insight as to if there's some other latitude or something else that could occur to help them to seek and receive funding, as well.

SENATOR STUTHMAN: I am really not aware, you know, in our county, if there is a juvenile program established. I was just always under the impression that when the kid got into trouble, we just took him up to Madison to the juvenile detention center. You know, and that's why I'm asking these questions--community-based program for juveniles. There may be some, maybe the diversion program that I'm not aware of, but I'm not aware of anything in the county.

TODD RECKLING: And it looks a little bit different. Some of the counties have...their county attorneys have been very active in that, in pulling the network of people together, sometimes the schools or other community members, providers. Sometimes the counties have designated like a program manager to help oversee this program. Probation has been very active, as well, schools. I think it just...it ranges, so I'm not quite sure, in your particular case, but I could answer those questions for you.

SENATOR STUTHMAN: Thank you.

SENATOR JENSEN: Any other questions? Yes, Senator...

SENATOR HOWARD: I'll ask my earlier question again. If this transfer is completed, will this result in the loss of

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any bargaining unit FTEs?

TODD RECKLING: The answer to that is no. Currently, OJS has absorbed the administrative costs so we could allocate all the funding to the counties, so it would be a shift in workload for one of our workers that's currently overseeing the program, and other...

SENATOR HOWARD: Thank you, I appreciate the answer.

SENATOR JENSEN: Senator Johnson?

SENATOR JOHNSON: Is there a point where counties would be small enough that it wouldn't be economically feasible to try and qualify under the type of program that we've set up?

TODD RECKLING: That's my belief. There are some...

SENATOR JOHNSON: There's 13 counties under a thousand population now, so how many juveniles they have would be pretty small, I'd guess.

TODD RECKLING: I can perhaps answer that in two parts. The first part is that I believe that that may be a hindrance for some of the smaller counties. Some of the allocation based on the distribution is fairly low, but the alternative to that is that they don't have to...a county doesn't have to enter into this as an individual county. They also have the opportunity to perhaps team up or collaborate or partner with another county to more pool their resources to make it more beneficial to actually get a larger--both in effort and resource around a program to implement and provide different types of services.

SENATOR JOHNSON: Thank you.

SENATOR JENSEN: Any other questions? I don't see any. Thank you for your testimony. Anyone else in opposition? Neutral testimony?

MONICA MILES-STEPPENS: Good afternoon, Senator Jensen and committee. My name is Monica Miles-Steffens, that's M-i-l-e-s-S-t-e-f-f-e-n-s. I am the juvenile grant administrator for the Crime Commission. It is my

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responsibility to oversee the federal grant funds that we get through the Office of Juvenile Justice and Delinquency Prevention, as well as our state Juvenile Services Grant Fund. I also oversaw the administration of the county planning grant funds, when we had those dollars available and facilitated the approval of the county plans, and provided the training for the counties in implementing those plans. I prepare the three-year strategic plan for the state for our grant in juvenile services funds, as well as the annual report to the Governor, and provide staff for the Nebraska Coalition for Juvenile Justice. I am here in a neutral capacity to answer any questions you have, in terms of how this program would impact the current commission.

SENATOR JENSEN: Thank you, Monica. Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. Monica, do you feel the funding formula that was addressed by our opposition--is there going to be a problem with that? The changing in that, or have you researched that at all?

MONICA MILES-STEFFENS: We haven't--we discussed it somewhat. We operate a federal program that is similar. It was called the Juvenile Accountability Incentive Block Grant Program, where it's set up somewhere that the federal government creates a formula and certain communities in the state are eligible for a predetermined award. In that program, the amount of dollars that are left over are then retained at the state level, and we're in charge of coming up with a plan on how to serve the rest of the communities that didn't receive a predetermined award. I think in this case, it would be similar, the way Senator Thompson has written the legislation, that those communities that only maybe get \$400 because of their population, those dollars could revert back and could be used for other counties who are interested in the program or in some way serve the county in another way that we could do at the state level, through providing services or training or something like that.

SENATOR STUTHMAN: Thank you.

MONICA MILES-STEFFENS: Um-hum.

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SENATOR JENSEN: Any other questions for Monica? Thank you for coming. Anyone else with neutral testimony?

CHRISELLA LEWIS: Good afternoon, Senator Jensen, and members of the committee. My name is Chrisella Lewis, and I'm Adams County clerk and I'm here to offer information in a neutral capacity in regards to questions posed by Senator Stuthman and Senator Johnson. Adams County has such a local program, and we have an interlocal agreement. Our program is called WE CAN. It stands for Webster, Clay, Adams, and Nuckolls Counties. And it is a program that was designed or developed after LB 640 was passed. We have qualified for funding for two years, and it is administered through one of the Clay County Extension agents. Her name is Strasheim--I can't recall the first name right now. But it's been quite successful; they've put a lot of work into it. It's an up and going program. What they're doing is, they're identifying at-risk students or juveniles through the schools and they are developing programs and transportation from the smaller counties to like the probation office, which is centrally located for the district, in Hastings, and to some alcohol and drug counseling, if it is so needed. So I'm just providing that as a matter of information.

SENATOR JENSEN: Thank you, Ms. Lewis. Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. In other words, your program is trying to identify youth that possibly were going to be getting into trouble, with an education there, and also providing those youth some treatment, or some service, keeping them in the community?

CHRISELLA LEWIS: That is correct.

SENATOR STUTHMAN: And that's a real asset, in my opinion.

CHRISELLA LEWIS: Yes, and it all came about from the LB 640.

SENATOR STUTHMAN: Okay, thank you.

CHRISELLA LEWIS: Sure.

SENATOR JENSEN: Any other questions? Congratulate your

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group for coming together with numerous counties.

CHRISELLA LEWIS: It's working well.

SENATOR JENSEN: Sounds like it. Thank you for your testimony. Anyone else wish to testify in a neutral capacity? Seeing none, Senator Thompson, do you wish to close?

SENATOR THOMPSON: Thank you. And I appreciate all the people who testified. The purpose of this bill is not change anything such as the last program that you just heard of. It's how it would be administered and by what agency. What this does most is help, not so much us at the state level, but the people at the county level and the people who work in these programs, so they don't have to go to two separate agencies for similar types of things. And I would like to address the issues that the department brought forward. First of all, they wanted the formula on page 4--the amendment that I provided to you did change the "may" to "shall," which I'd be happy to make sure that Mr. Reckling gets a copy of that amendment. But that, I assume, would take care of that concern. The second thing he mentioned is something that hasn't been used, nor is it being enforced currently, and that is the portion that talks about taking away the money if there are kids being put in the YRTC's, for a shortened version of that. That currently isn't being enforced. If the department is enforcing it and they have deducted money for that purpose, I hope they'll come forward and let us know. But I feel that that's unnecessary, and that was recommended to me to be taken out by our own state juvenile services group that we said reports to the Legislature with these kinds of recommendations. So I support their view of that particular thing. I did call to get the--had my staff call to get the population currently at the two YRTC's. This is one of many things we have done as a state to try to get that population down. And it isn't where it was when we started eight years ago. We're doing a much better job. Some of that is through some of the tobacco settlement money, which we're providing mental health and substance abuse treatment services and some other things that are out there, in addition to this. But having the counties have this level of funding so they can get to their local issues which

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they've developed in a planning process, nothing changes in that regard. All it changes is where they come in state government, the point where they come, to be able to make their grant applications and get it administered. And that's the difference here. The County Juvenile Services Aid--I would mention this is a plan report that the Department of Health and Human Services issued. It's dated June 30, 2004. It said 33 counties are not participating, despite continued efforts to involve them. Possible reasons why they are not participating include a lack of staff or resources to complete the application requirements, administer and monitor the program, or the funding allotment for smaller counties is not enough to make the program worth their time. And Senator Stuthman, that's kind of getting to the issue. And I apologize for getting my numbers sort of mixed up. But that's where we came up with the \$2,500 for those small counties. But they would have to group with another county in order to get that money. Also, you're correct. The original bill did state that the original planning grants were \$2,500 and they expired. What this legislation does is make that planning an allowable use of the current grant funds from the Crime Commission, and just strikes all the language in 2001 and 2002, which was the bill that passed in probably 2000, I would guess, which made the juvenile services advisory group advisory also to the Legislature for juvenile issues in the state, and also required all the counties to have a juvenile services plan. I'd be happy to work with the committee on any part of this that you might want different. I would say this isn't my genius for this bill. It was developed by the people in the field who made this recommendation from this coalition, the judges and others who work directly in these programs. The money doesn't change, the purpose of the money doesn't change. It's the same as it was before, with a couple of minor modifications to improve the way it works. It just makes it easier for the people at the county level to only go to one agency, and not two.

SENATOR JENSEN: Senator Erdman?

SENATOR ERDMAN: Senator Thompson, I think you addressed all the questions from the department except for the reason that the county match went away.

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SENATOR THOMPSON: Oh, yeah. Yes. This has always been a difficult part of getting the counties to be able to afford to be involved, and I think there are a couple of us former county commissioners, which I've always said we were the cheapest people on the face of the earth, and I mean--well, three. Right? (Laughter) And we are, not in a mean sort of way.

SENATOR ERDMAN: Is that what I get to look...

SENATOR THOMPSON: But we are the tightest--we were the tightest ticks you could ever find. I don't think I've ever worked in that regard. And so the state, in order to facilitate that the counties would step up to the plate and take on this piece of the problem. I mean, I describe the juvenile justice system in Nebraska as a swimming pool. Counties kind of have the baby pool and the shallow end, and go all the way up into the state services, once kids move along. We really, really need the counties to step up and take over, you know, the baby pool and the shallow end. It's tough for them to come up with extra money to do it. So in the grant programs, we've done what we call in "grantdom" soft matches, which are, you know, if you provide a corner of the courthouse and 10 percent of somebody's time and electricity and whatever, we would count that as a match. And it's property tax money, and it's just tough to come by. Rather than play a game with this to get the soft match and all the bookkeeping and everything else that's there, and also discourage the counties that need to be stepping up to the plate, I think it makes sense to lift that, and that was recommended to me and that's why it's in there. That would be the only difference. I don't think it was hard money, necessarily, from the counties. Some of the larger counties, Douglas County, made a significant amount available in their general fund to juvenile services at this level. Sarpy County has. Lancaster County has. Maybe--I think probably the counties that support the Madison County center and a few others, but generally speaking, this was very hard on the rural counties, and it is for the \$2,500 minimum. I mean, when a county gets \$400, it's hard to get them fired up over this. The minimum helps the more rural areas of the state, and it helps those counties that just won't have the resources, because they have small populations, or declining populations, be able to take care

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of these kinds of issues. It's kind of a rural issue, I guess.

SENATOR JENSEN: Senator Thompson, refresh my memory, but it seemed to me that back when we were working on this that one of the issues that the state presented, and the Governor at that time, is to get more control over the placements of the individuals. What happens now, underneath that? Do we still have some control? Who has the control? Is it all up to the counties, then?

SENATOR THOMPSON: Well, the decision on where the child is placed is with a judge.

SENATOR JENSEN: With a judge.

SENATOR THOMPSON: So--unless they don't penetrate the juvenile justice system. Now if the--they may end up in a state placement, at which time it's a hand-off to the state, with some minimal oversight from the judicial branch. But what the counties--the advantage to the counties is they pay for detention, which is the first costly amount. So anybody they can put in a lesser expensive program, get early treatment, get early intervention, will keep them out of detention, and that benefits us, because the next step after detention could be state service.

SENATOR JENSEN: Right.

SENATOR THOMPSON: So what we've been trying to do is build that front end piece, and I think that's what the people who met with the Governor's staff at--I think they had a meeting at Mahoney a few years ago--was what all the people in the system said, it's better to not have a kid ever get in the system, if we can serve them at the community level. And a lot of that wasn't happening, in terms of assessment. Douglas County has just put together a very successful juvenile assessment center. And what we need to make sure of is that the county is doing--I've moved the pool twice now. They need to be stepping up, and we've asked them to take on that responsibility, which is virtually not anyone's, except to the advantage that they aren't penetrating the system. I think there was some concern at the time this bill passed, that some games were being

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played, and there were kids being placed in Kearney, because that way, the county didn't have to pay for the detention costs.

SENATOR JENSEN: A dumping facility.

SENATOR THOMPSON: Right. And so we have put an intake process into place, we added a probation officer, so we have an assessment at the front end of the process. We have put requirements in place for who gets placed in that center, and some oversight of that that wasn't there. So hopefully, with our assessment process that has been part of our reform, we're getting the right kids in the right places. For those counties who were telling the sheriff, you know, drive them up to the YRTC's and dump them, you know, that was what we were trying to prevent. And I haven't heard much about that. Now it may be happening, but I have not heard that happening in the last two years.

SENATOR JENSEN: Good. Thank you. Any other questions from the committee? I don't see any.

SENATOR THOMPSON: Thank you.

SENATOR JENSEN: That will close the hearing on LB 193, and you can also open on LB 204.

LB 204

SENATOR THOMPSON: LB 204 actually was heard by the Judiciary Committee last year, so this is one of those bills that's a retread, but it's coming to you this year. And what it deals with is an old and perennial issue, but it is a problem for the counties. What happens when you have a county in...a prisoner in a county facility, is that the county assumes the expenses, the medical expenses. Let me tell you a story. I don't think I've ever told this story publicly, but it's so old now that I can probably tell it. There was a person in the county I resided who discovered he had a very serious heart condition. He had a small house that he had inherited from his mother, and he was uninsured and it was literally going to take all his resources to be able to pay for that. So he started getting arrested. Now

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when he got arrested in Sarpy County, they immediately released him because they knew what the deal was, and nobody wanted to pay the bill in our budget. He eventually got arrested in another county, became ill, and that county paid for his heart surgery. And so I'm not sure how they were billed, but by way of illustration, sometimes for counties, what happens to these prisoners when they come in, is very, very expensive. So while they're in the custody of the county, the county pays their costs. When I was a commissioner, we tried just about every way from Sunday to make sure that we were doing things in an efficient manner. People who get arrested, sometimes our people have taken very good care of their health in the first place. But we did try to make sure that their health insurance was used first. I did, when I was chair of the board, meet with the hospital and request a Medicaid rate. This bill is even more important now than 20 years ago when I was doing this, because the way medical care is paid for is a whole different ball of wax, game, whatever you want to call it. Instead of having a price that's based on actual cost, price is determined for medical purposes, for billing purposes, by the negotiation that your insurer makes. So you'll get a statement and it will say, you know, \$1,000. You owe \$200, and we negotiated it. No, says actual cost \$1,000. We negotiated it down to \$800; you pay \$100, and your insurance company pays whatever. Well, what happens for...and this happened to the state in the state Department of Corrections up until some huge negotiations went on by the Governor a couple of years ago, the state was getting charged the \$1,000. The same thing can happen for the counties. And so what we're saying is that county prisoner costs should be afforded the Medicaid rate, just as all, just as other governmental entities are able to do in other situations. In other words, treat these people the same as a Medicaid eligible person, if they are a prisoner. And this is an attempt by the counties to get some control over what they have to pay in tax dollars for their prison population. It's not going to be popular with medical providers, because...but the fact is that what is the sticker price now is so out of whack with what a government can be able to afford that it doesn't make any sense. The counties have come with this bill. I've carried it because I faced these issues as a county commissioner. I think it's important that as a state we allow them to charge Medicaid rate for

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those prisoners while they're in their custody, particularly with the larger number of uninsured and also the way the costs are being allocated to them. So that's what this bill is about.

SENATOR JENSEN: Thank you. Any questions? Are there ever any prisoners that do have insurance?

SENATOR THOMPSON: Yes, um-hum.

SENATOR JENSEN: Thank God. (Laughter)

SENATOR THOMPSON: Well, remember at the county level, I mean, people can get--you're going to have people who serve less than one year.

SENATOR JENSEN: Yeah.

SENATOR THOMPSON: And so, you probably have a greater mix than you do, once you get people who are serious felons, who come to the state system. So there are people who are insured. You get bad check writers, and who may be employed. You get people who are nonsupport of child support, and a few other things. And so the kinds of crimes that they could be in there for are a wider variety.

SENATOR JENSEN: Right. Any questions for...Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. Senator Thompson...

SENATOR THOMPSON: Um-hum.

SENATOR STUTHMAN: ...the way I'm understanding this, now that the general systems would only pay the Medicaid rate, the hospital provider of the medication would have to absorb that other portion, right, of the bill?

SENATOR THOMPSON: Right. What you'll hear from some of the--well, I don't know, I don't see mine now. For example, if you are the hospital and you charge sticker price, that's what you get paid by the county, because the county can't say, we're not going to pay that. I mean, you get the bill.

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Now they may be paying a different price to anyone that they provide services through, like Blue Cross/Blue Shield or another private insurance company, but technically, the county can be charged the sticker price. Last year when I introduced this bill, the Governor's office asked me to include state also, the state prison system. This year I was asked to introduce this for the counties, and I brought it in for the counties again. But they had faced that exact same thing in very recent history there. And it's a big expense. Healthcare costs are a huge expense, and we're just trying to protect the taxpayer, by not getting what potentially could be that very high cost, and say it should be the Medicaid rate, just like we do in other systems.

SENATOR STUTHMAN: Okay, thank you.

SENATOR THOMPSON: Thanks.

SENATOR JENSEN: Any other questions? Senator Erdman?

SENATOR ERDMAN: Senator Thompson, does this apply only to counties, or does it apply to any agency in the state?

SENATOR THOMPSON: This is counties.

SENATOR ERDMAN: Okay.

SENATOR JENSEN: Any other questions?

SENATOR ERDMAN: Because...I'm sorry.

SENATOR THOMPSON: Did I...

SENATOR JENSEN: I'm sorry.

SENATOR THOMPSON: Unless it got drafted.

SENATOR ERDMAN: The only reason I ask it is that there's a request from the Department of Correctional Services, and it says there would be a likely fiscal impact that would involve some savings for DCS.

SENATOR THOMPSON: Oh, well maybe...okay. Once again, I may not...

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SENATOR ERDMAN: And so I'm trying to determine...because there are sections in 71 and then there are sections in 47.

SENATOR THOMPSON: This was supposed to be drafted to the counties. I'm going to close and check this out, but we thought we were doing it for the counties.

SENATOR ERDMAN: Because as I would read page 1, Section 1, line 8, it says "by the appropriate governmental agency" and I'm not sure what that references back to.

SENATOR THOMPSON: Yeah. We thought we were introducing it for the counties.

SENATOR ERDMAN: Okay.

SENATOR THOMPSON: But I will double check that. If we're doing it for the state, then I agree with that, also, especially as a member of the Appropriations Committee. (Laughter)

SENATOR ERDMAN: You can check on that, then.

SENATOR THOMPSON: I will check that out, but I will...

SENATOR ERDMAN: And we'll see what happens. Okay, I just wanted to be clear.

SENATOR JENSEN: Thank you, Senator.

SENATOR THOMPSON: Okay, let me double check that. I apologize. Thank you.

SENATOR ERDMAN: That's all right.

SENATOR JENSEN: All right. Proponent testimony, please.

KERRY EAGAN: Good afternoon, Senator Jensen and members of the Health and Human Services Committee. My name is Kerry Eagan. I'm the chief administrative officer for Lancaster County Board of Commissioners. I'm here on behalf of the county board to testify in favor of LB 204. Certainly Lancaster County has a constitutional and statutory duty to

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care for the known medical needs of inmates in our county jail. This duty also extends to patients who are in emergency protective custody or EPC for short, who fall under the county's care. But the county believes there's really very little difference between our duty to provide medical services for inmates and EPC patients and other government programs which provide medical assistance to eligible citizens. In fact, most of the inmates that we provide medical care for are medically indigent; in other words, a vast majority of these individuals would qualify for Medicaid or general assistance or some other program, but for the fact that they happen to find themselves in jail. Of course, senators, one example is the situation where maybe the person wasn't legally indigent because they'd inherited a house, but that's always the exception that proves the rule. I think you'll find in a vast majority of the cases, the people who find themselves in jail simply cannot afford the cost of their own medical treatment. Accordingly, we think that Medicaid rates should apply to medical expenses paid by a county on behalf of inmates and EPC patients. We believe this argument is further buttressed by the fact that hospitals in Lancaster County are exempt from paying property taxes. There's good public policy reasons underlying this. The hospitals provide a lot of charitable services to people who need it, and they are assisting the government in discharging a governmental function. They are providing invaluable assistance to help the government pay for the needs of the medically indigent. Thus, in our opinion, there's a clear nexus between a hospital's exempt status and the payment of Medicaid rates for patients which become the responsibility of local government because they are in jail. So in conclusion, it's the county board's position that we would ask this committee to advance LB 204. I can answer any questions that you would have. I'd also indicate that Mike Thurber, our corrections director, is here to testify. You can ask him specific questions about jail costs, and Scott Etherton, who is our director for our crisis center, is also here. So I'd entertain any questions.

SENATOR JENSEN: Thank you, Mr. Eagan. I'd like to ask a question. When somebody comes into your system via the crisis center or through incarceration, do you immediately apply for Medicaid services for that individual, or...and

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there is a short period of time there, before that is approved, but what is the process there; do you know?

KERRY EAGAN: Well, I'll let Mike Thurber answer that question, but I would say probably no, that unless there's a medical need for the inmate, we wouldn't initiate any process to provide medical care. We have to know of a known medical need, and then it is our duty to provide for that care, to maintain a level of decency for the inmate.

SENATOR JENSEN: Okay. Okay, thank you. Senator Johnson?

SENATOR JOHNSON: Well, basically then, what we're doing is cost shifting to somebody else. How much are we talking about, say, for Lancaster County?

KERRY EAGAN: Mr. Thurber and Mr. Etherton can give you exact figures on that. It's adding up more and more and more. But I think in answer to the question, though, that in other governmental programs, these people would qualify; but for the fact that they're in jail, they would already qualify for existing programs, so the only difference is...

SENATOR JOHNSON: Well, I heard you the first time, but it still is...it's shifting the cost to somebody else, and I guess...

KERRY EAGAN: Yes, I...

SENATOR JOHNSON: ...I want to know how much we're being asked to shift.

KERRY EAGAN: Okay, I think Mr. Thurber can look at the specific numbers that we're looking at. I guess you heard me before, too, but they are exempt from paying property tax, too, so we think there's a little duty that runs along with the privilege of that exemption.

SENATOR JOHNSON: Yes, I understand, but I was curious about how much we're actually talking about.

KERRY EAGAN: Yeah, I think Mr. Thurber can provide that in the jail context, and Scott in the crisis center context.

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SENATOR JOHNSON: Okay, great. Thank you.

SENATOR JENSEN: Any other questions of Mr. Eagan? Thank you for coming forward.

KERRY EAGAN: Thank you, Senator.

SENATOR JENSEN: Next testifier in support?

MICHAEL THURBER: (Exhibit 1) Good afternoon, senators. I probably ought to start by saying that I do work for county commissioners, and I do not consider my bosses to be cheap... (Laughter) and I consider them to be very astute public policy leaders. But I do appreciate the opportunity to come and speak with you today. My name is Michael Thurber; I'm corrections director for Lancaster County, that's T-h-u-r-b-e-r. And I would pass out a short testimony today, but Lancaster County is aware, as were the former county commissioners, that they are mandated to operate adult detention facilities. And it is our mandate to provide medical and ongoing mental health treatment while a person is incarcerated with us. It has become one of our largest expenditures in our budget, and nationally, you'll see anywhere from 6 to 12 percent of a budget of a county jail will be spent on medical needs. Last year alone Lancaster County booked 9,500 individuals into our facility, and the first six months of this fiscal year we spent over \$190,000 in treatment, surgeries, pharmaceutical and outside patient appointments. It is projected we'll spend probably close to \$390,000, almost \$400,000 for this year, for the ongoing care. This is mandated, as I said earlier. To answer maybe what Senator Jensen asked about do people have health insurance, nearly 100 percent of our offenders don't. I've been director since 1993, and we've had four individuals that have had health insurance that have actually helped pay some portion of that. As a county jail, we are short-term detention, and that's what I think needs to be stressed, that an individual has ongoing medical needs, and many of them are being paid by Lancaster County, as part of the Medicaid or GA, general assistance, program. That individual is now incarcerated this evening on an outstanding warrant, or a child support case, a check case, then that ceases for them. So they are no longer eligible for the program, as federal guidelines have set out. Thus

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then, Lancaster County is then responsible while they are incarcerated. These individuals may get out--our average length of stay is around 14 days, even though we run about 260, 270 individuals in our downtown location. Every day, it is a turnover that we see in short-term detention, and while that is here, we feel that it's only appropriate that government pay what they normally pay, if that person was a citizen in our community. Ninety-five percent of our individuals are from the city of Lincoln or Lancaster County, and their care, medical care, is ongoing in our city. We just feel that setting a standard rate, at a Medicaid rate that government pays, would be if nothing else, a platform for all correctional facilities in the state, and one that would make sense in how you would set the rate for the care they have. I did identify three medications that we paid for in 2004: Respidol, Serquel, and Zyprexa. We spent over \$80,000 just on those three medications in one year, for inmates while they're with us for that short period of time. So it's difficult to manage medical care in any system. We just feel that LB 204 would provide the tool to better plan for our future medical costs. I'd like to try and answer questions if I could and appreciate your time.

SENATOR JENSEN: Well, thank you, Mr. Thurber. Any questions? I don't see any. Thank you for coming. Next testifier in support?

SCOTT ETHERTON: (Exhibit 2) Good afternoon. I'm Scott Etherton. I'm here representing the Community Mental Health Center in Lancaster County, and I'm the director of the Lancaster County Crisis Center. We are a short-term evaluation facility for people who are placed on emergency protective custody and mental health board holds. Our average stay is about four days. The information I provided you is just some...came from billing from BryanLGH, and it just gives kind of a rough estimate of how much medical costs were incurred over the time period indicated. And then at the bottom, it gives an indicator of how much we've been using that last year. If anybody has any questions, I'd be glad to answer them.

SENATOR JENSEN: Could you tell me what--your medication, quite often, is psychotropic drugs; is that correct?

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SCOTT ETHERTON: Our medication is both. The last fiscal year, medication that was not reimbursed was about \$84,000 that it cost us. The patients we get in--a little less than 50 percent--have either private insurance or are covered by Medicaid or Medicare. And we do bill those out and do get some reimbursement for those.

SENATOR JENSEN: Just out of curiosity, when you purchase those prescription drugs, are you...do you get a special rate, or...

SCOTT ETHERTON: We have a contract with Pharmamerica to provide us everything, and we go through them for those.

SENATOR JENSEN: Okay, thank you. Any questions from the committee? I don't see any. Thank you very much for your testimony. Anyone else to testify in support? After this, is there anyone else who wishes to testify in support on this bill? In opposition? Thank you. Please go ahead.

BETH BAZYN FERRELL: Chairman Jensen, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County Officials. I won't duplicate the testimony that you've already heard. I just would like to go on record as the association being in support of this bill. I'd be happy to try and answer any questions.

SENATOR JENSEN: Thank you very much for coming. Any questions? I don't see any. Thank you very much. We're ready for opposition testimony. Welcome.

ROGER KEETLE: (Exhibit 3) Thank you. Good afternoon. For the record, my name is Roger R-o-g-e-r, no D in the Roger, Keetle, K-e-e-t-l-e. I'm a registered lobbyist for the Nebraska Hospital Association. On behalf of our 85-member hospitals and the over 35,000 people we employ, the NHA is opposed to LB 204. And you should be opposed to this bill, for the following reasons. Current law, as you'll notice in LB 204, requires that providers seek payment from insurance companies for persons that have been incarcerated, and that process was put into law by mutual agreement between us and the counties years ago, so that the hospitals

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do run through their administrative processes, to make sure that there is or is not any insurance available for the prisoners before we go ahead and bill the county. So we have worked cooperatively in the past on this. It isn't an extra administrative expense for the hospitals, but it is trying to at least begin our share of dealing with this issue. As we mentioned to you before, according to the information submitted to us by our member hospitals, in fiscal year 2003, Medicaid paid about \$82.5 million less than our actual care providing services. So we...extending this discount to the counties--and frankly, I read it as the cities, too, but I could be wrong on that--is arbitrary and I'm frankly to the point where we've got a conceivable constitutional problem. I guess, to let you know for the larger hospitals, the prospective payment hospitals, our services are based on a formula that was established in 1997. We've had a lot of costs in the healthcare system that have gone up considerably since that time. There has been a small market basket index, and that's when the plan was rebased in 2001 and 2002 where actually things changed considerably, depending on the hospitals and the base year. Two years ago, because of the budget cutbacks, the rates paid to the prospective high-payment hospitals were reduced by 3.5 percent, totally arbitrary. Last year we did get a 3.5 percent increase, so essentially for the larger hospitals, the Medicaid rate is the same as it was two years ago. Payments for mental health services were also reduced as a part of the budget initiative, and also have not been changed. And I think it's always fair for me to say that even in good times, the state's revenues have never really paid hospitals the full cost of providing services to Medicaid patients. So, we mentioned before that the biennial budget, again, does not include any increase for provider rates, hospitals, and physicians under the Medicaid program next year. Only the prescription drug people, which are out-of-state companies and the skilled nursing providers are going to be scheduled for any kind of raise. Again, I express our disappointment that we don't really recognize reality, and that costs in the real world are going up and we're just shifting more and more costs. We share some of the problems the counties have, but reality is, costs are going up. Pharmaceutical costs are going up, we have to pay higher costs for nursing. The federal government doesn't pay... they basically tell us what we're going to get paid,

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and this almost becomes almost like a grocery store. If a grocery store--if it was public policy that you had to give away food and the government was your major payor and they set your rate, then all of a sudden, why, everybody else wants their rate, pretty soon there's nobody left to really support all of the costs of the grocery store. And that's really where we're at. I think I said in my other testimony that our billed charges are scary. They are scary, and unfortunately, in this particular instance, the counties are on the hook for taking care of the medical expenses of their patients that are incarcerated. And they're not eligible for Medicaid. And I think we've tried to work--the hospitals have tried to work across the state with the counties to try and come up with a reasonable arrangement. The case that was mentioned before by Senator Thompson, the county had absolutely no arrangement with the hospital. The ambulance or the police officer rolled up with a person with a heart attack in the back, and they were treated through the whole system. So if we're going to do discounts, we need to work together, and I think we try to. You know, granted we're tax exempt, and that's property tax exempt and all of the hospitals submit justification to the county for their property tax exemptions and we compile those numbers and these documents that we give to you about community benefit. So if there's anything that I know I can prove, it's we prove our tax exempt status. I mean, we would be better off paying property tax, because it's to the point where the expenses and write-offs are such that you begin to wonder whether it's worth it. The problem is that our real mission is to take care of people. And I guess with that, where we're at is, Senator Johnson is absolutely right. If we can't work out something with the counties, this cost has got to be borne by somebody, and it's going to be shifted somewhere, and the only place we have left to do that is our billed charges. And what you're hearing here is, look how scary these billed charges are. Well, they're that scary, that large, because we're shifting these unpaid costs to those billed charges. So we just make the problem worse and worse and worse. Again, it's one thing to accept the Medicaid rate and to negotiate for that rate; it's another to be mandated to accept that rate. And I really urge you to not do that, to not pass LB 204. I mean, that is really, in our opinion, giving away free food, and the whole system can't afford it. But we've got to work together to control

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our costs, and frankly, the counties pay full price for traveling the roads, they pay full price for building bridges, unless they negotiate a deal, and I don't see any difference why this service shouldn't be something we try and work out together in the private sector. With that, I'd take any questions.

SENATOR JENSEN: Senator Erdman?

SENATOR ERDMAN: Roger, are there hospitals that are going to testify, or are you here representing hospitals exclusively?

ROGER KEETLE: I'm the general hospital testifier. Behind you'll find a man who works in this field day in and day out, and so he can give you some specific examples. And it's, you know, it's a visceral kind of thing. When we were out in Kimball, we talked about how the Wyoming bus comes to Kimball and discharges the people that have a mental illness at Kimball Hospital, saying, they're yours. Remember that?

SENATOR ERDMAN: I don't think Greyhound is there any more, but I remember the discussion. (Laughter)

ROGER KEETLE: Yeah, I mean...and we've had sort of the same thing, sometimes, with the counties, where the cruiser shows up, somebody says take this patient, let me know, you know...we'll be at the door to take him when he's done getting free emergency care, so, you know, there's anecdotes all over the world on this. But really what we need to do is try and work together and recognize reality--medical care is expensive.

SENATOR JENSEN: Yes, Senator Byars?

SENATOR BYARS: I might just comment, and I know Mr. Sher is coming up next, and I'm just thinking of a situation that was brought to, I think, all of our attention here, just within the last few months. Because I looked at the average stay...the average bed time within the hospitals is like 3 point something days, and I think I remember one situation--I hope Brad will bring that up--relative to a 40-some day stay that was required for one of their patients at BryanLGH that wasn't reimbursable, which somebody has to

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eat. And safety--wasn't there a situation over at the Tecumseh Hospital where there was an inmate who somehow smuggled a gun into the hospital and shot somebody in the hospital?

ROGER KEETLE: That's a good point, Senator. It turns out--when I talked to the administrators, it was a paper mache gun or something.

SENATOR BYARS: Yeah.

ROGER KEETLE: And I won't tell you where he hid it.

SENATOR BYARS: Oh, okay.

ROGER KEETLE: But be that as it may, that's the other thing that really, really is another insult to injuries. When you have a patient in your hospital that's a prisoner, you're talking high touch, high care, high cost patients, because somebody's got to be with them. I mean, this is not your garden variety Medicaid patient, when they come in in an orange suit with shackles and require special treatment. These are not figured in our DRG, trust me. These aren't figured--it's an extraordinary patient.

SENATOR BYARS: Thank you, I was just trying to remember some of those unusual circumstances. Thank you.

ROGER KEETLE: It is an extra cost to take care of them. The Tecumseh Hospital, again, tries to work with Corrections. In fact, they're trying to put in the telehealth setup, so they don't have to bring them to the hospital, which to me makes tremendous sense.

SENATOR BYARS: Thank you.

SENATOR JENSEN: Sure does. Senator Johnson?

SENATOR JOHNSON: Well, one of the reasons that I was asking for the numbers, as to what the difference was here, and I don't believe I heard them--at any rate, it seems to me that, is there a place here for negotiation, rather than a bill that, you know--just to pick a number out of the air--that you take the Medicaid number plus 20 percent, or

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whatever number that you come up with, rather than coming before us with a bill that mandates this.

ROGER KEETLE: Certainly Mr. Sher can...

SENATOR JOHNSON: Is there any room for that type of...

ROGER KEETLE: Yeah, I think that's how we would urge you to leave the law, and certainly, I think Mr. Sher will tell you that that happens.

SENATOR JENSEN: Any other questions? Roger, do you know of any hospitals that do negotiate with the county on expenses like this?

ROGER KEETLE: Generally when they don't negotiate is when they're dumped on. And that's when, all of a sudden, you know, they have no arrangement. And that's generally when we have this problem. It's when the hospital says, dad-gummit, they dumped this person off at our emergency room, we (inaudible) our entire obligation, and then didn't pick up beyond stabilization. That's--now if we're going to generalize--that's the general rule. I believe most of our hospitals work in advance with the counties, if there's a deal to be worked on, and this, obviously, when you have a jail in your community, there's going to be somebody that needs medical care, and it sure seems like there ought to be a way to work this out.

SENATOR JENSEN: Sure. Thank you. Senator Stuthman had a question.

SENATOR STUTHMAN: Thank you, Senator Jensen. Roger, I have served on the county level and the cost, you know, gets very large sometimes, and in sympathy to the taxpayers, you know, I can respect, you know, counties trying to get it lowered. But realistically, you know, it's the responsibility of the county to do this. The hospitals, the hospital association, realistically, they depend on the private pay and the people that can pay to fund that portion of it, and the portion that is not picked up by Medicaid, Medicare, and all of that. And that's why these prices, in my opinion, get so high. But in order for the hospital association, the community hospital, to make a profit, which they do, and

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it's all figured in there, their rates have to be so high and they're dependent upon the private pay ones to pick up the tab. And I don't think those few private pay ones should be obligated to pay for part of the county's responsibility, and that's a real concern of mine.

ROGER KEETLE: Thank you, Senator. That's our concern, too. You know, I work for probably the largest charities in the state, the hospitals. And that is still our mission, it's still on the wall, that our mission is to serve the community. And that mission is to deal with the entire community, and we've got to remember, we could run the private--we're running insurance out of affordability, too, here. And this is, by law, the county's obligation for the prisoners. So, thank you.

SENATOR JENSEN: Do you suppose there's any medical errors in the prisons that...(Laughter) That's for another day, I guess. (Laughter)

ROGER KEETLE: That's for tomorrow, Senator. And I hope we get some...

SENATOR JENSEN: Or patient safety, or (Laughter)

ROGER KEETLE: I hope we can make some progress on that bill tomorrow. We have a Health and Human Services bill over in the Judiciary Committee tomorrow, so I guess this is the bill you got instead. I would have rather had that patient safety bill in this committee, where it should be, but...so...thank you.

SENATOR JENSEN: Okay, thank you. Next testifier in opposition?

BRAD SHER: (Exhibit 4) Senator Jensen, members of the committee, my name is Brad Sher, S-h-e-r. I'm the vice president of managed care and public policy for BryanLGH Health System. I'm also registered lobbyist in the state of Nebraska, working solely in behalf of BryanLGH. I'm here to testify against LB 204. I want to bring up three kind of major points and answer a few questions that have been brought up. As you all know, I have testified in front of the committee before. I'm the guy that negotiates the

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contracts and the deals and so forth, and have dealt with this issue for a long time. We need to focus on a couple of aspects; one is the aspect of prisoners. This isn't just county prisoners, because we've had to deal with the state prisoners, and at BryanLGH, traditionally, the Lincoln General Hospital, we've been the entity that has handled prisoners in the state for a long time in our area, okay? And then there's the EPC issue, of which you should be, of all people, very familiar with, and I want to talk about that aspect of how we deal with everybody on that. Number one is, taking care of both prisoners and EPC patients is not easy. It is not the run-of-the-mill; it is not, you know typical of any--if you showed up, we would get you through registration, and so forth and so on. It doesn't happen that way with prisoners, okay? And we have, over time, worked out a very good system for managing the patients and accommodating the demands or the expectations of the correctional facilities, because they have their issues of safety, of security, and so forth. And going through normal processes just doesn't work very well. And so, we have worked out systems that allow that to occur that's beneficial for both people. It takes a lot more staff time, it takes a lot more effort on our part, but as our community obligation of trying to treat everybody fairly and well and so forth, we've gone about doing that. Not every hospital in this state does that. Not every hospital in this town does that, okay? Because part of the problem is, is that while we're dealing with our staff, who are uncomfortable dealing with the prisoners and patients like this--because they're not exactly the most pleasant people in the world--we're dealing with the expectations of corrections. We're also taking a toll on all of our physicians and the people around them who are also uncomfortable dealing with this, okay? From an EPC perspective, I'm dealing with psychiatrists--I'm down to three who will take in-patient call now, okay? And we're trying to manage our way through that, because they don't get paid on EPCs. They don't paid for taking care of this stuff, and the amount of money they do get paid, particularly with Medicaid or otherwise, it's like, why bother? When you've got four or five hours of paperwork to take care of a patient, and you've got to come in at two o'clock in the morning--not a lot of fun. The same issue is going on from a prisoner perspective. And if you want to

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drive the physicians out of here, just start paying them Medicaid. You already know what it's like with physician access and Medicaid. It creates an additional burden for us from a call perspective, because now we're trying to keep doctors taking emergency room calls, so they bring them into the emergency room. They've got to see them, they go okay, not only am I dealing with a prisoner I'm not real comfortable with, but number two, I'm now going to get paid Medicaid for dealing with this? Why am I taking call? Is this a good idea? And then the last one is the issue of the cost of lost business. Two weeks ago Lynn Wilson, our CEO, got a call from one of our major admitters who said, I don't like to see people walking down the hall in shackles, because it makes my patients uncomfortable. Can we get rid of the prisoners? And the implication is, if you don't, I'll pick up my toys and my patients and we'll go somewhere else. That's a cost-of-business to us as well. Now, we're trying to manage through that and talk about a community obligation and say how we try to avoid, you know, all that stuff in dealing with that. But that's what we're going through, as a cost of dealing with the patients. Number two, of all the committees, you all know Medicaid doesn't cover our costs, okay? Not even close. I passed out this--timing is everything--just got this issue in the last couple of weeks, okay, to give you an example of what is going on. I passed out this little chart, and it shows that someone came from Seward County--unemployed, didn't have anything--gastritis, hypertension, chest pain, okay? Now I can't tell from the record whether it's like made up or not, okay? Like, just a way to get out of their situation or whatever. But we had to do a CT scan, a GI series, nuclear med studies, drugs, stress tests, ER charges and lab tests; put up \$13,000 worth of services in three days--this occurred in October. Medicaid, had they paid us, would have been \$2,300; that's a 17 percent reimbursement, okay? And that's not counting--this is just our costs, not counting what happens with the doctors and all that kind of stuff. So you know it just doesn't cover the costs. I'm trying to make this all work. Now Seward County--the reason I knew this is they called us and said, will you cut us a deal? And I said, absolutely. You don't have to pay our billed charges; let's work out a deal. But I want to talk about that...The other point is when we talk about psych and EPCs, okay? You all know we got the increase with the tobacco

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funds, and we've had them go down in cuts every year because of budget cuts. I got called by the Governor, and Health and Human Services says, when we had the big budget, we don't want to pay this any more, we want to pay you less than 595, and we now have our tiered system, and now, even again, HHSS says, let's not do any increases in Medicaid. My cost, or our losses for Medicaid mental health now--or excuse me, mental health overall, is \$4.4 million in losses, okay? Richard Young in Omaha gave up at 3.2. Now I'm not telling you I'm going to give up or whatever. I'm just telling you, I don't need any more. And the EPC problems we've dealt with, as you know, and I'm very glad that, you know, Region V and Lancaster County have got the triage system that has lowered the number--it has not eliminated it. I've also had the problem of other counties bringing their patients to us and saying--if you're going to bring them to us, we need to talk about what's going on, because they're either avoiding the system or the system is spilling over, and then how are we getting paid and so forth? Last thing is, on this point is, our costs keep going up, our costs for staffing, technology, call for the doctors--which we now have to pay people and so forth--our costs keep going up. And the last one is, my real concern about this bill is, if you say fine, it's now Medicaid, you are going to encourage dumping. And it's--I'm not accusing anybody of dumping, I'm telling you what it feels like, from our perspective, to get dumped on, okay? Because that's what it's like, and I believe if you do this and you make it cost less, you're going to have more of an increase of the likelihood of this occurring. I think it will encourage more people to do it. I think with EPCs, our concern is, it's good to have it up, then we can keep it in the system it should be in and so forth. And if my rates go down, it's like, oh okay, well, we'll just keep using them, and so forth. There's been a lot of game playing going on with EPCs about bringing them, dropping them off and saying, no, they're not EPC. I've had three examples that I had to go up to Omaha and talk to Douglas County about, you put them in the back of a cruiser, drove them 60 miles to my place because there was no room in Omaha, you need to pay the bill. And they look me in the face and said, no, we're not paying the bill, okay? So I don't want to encourage them to do that, and what this does now is, we are, and my compatriots at the large hospitals--because this is a little

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bit interesting in terms of discrimination with the smaller hospitals that are all critical access who say, well, you just need to pay costs and so forth. They're paid differently. They're not paid 17 cents on the dollar, 30 cents on the dollar, whatever, that Medicaid does, from the prospective payment system. But what we need to do is to--we all negotiate with the counties. I've got negotiations going on right now with Lancaster County. I'm willing to talk to everybody. I've talked with Seward County, I've talked with Sarpy County. We've done deals. I've been willing to do things with Douglas County, if they're willing to pay. Gage County--I mean, they all can call us, they know how to deal with it. I know they don't want to pay my bills; I'm very sensitive to the issue of the taxpayer and the exchange and all that kind of stuff. But just mandating Medicaid just adds to my list of woes and problems, and it's just not a fair system. A couple of other little points. I have worked with Lancaster County on doing GA and accepting Medicaid for GA, as part of our community obligation and so forth. The state Department of Corrections we also had to deal with. They went and got Blue Cross--don't ask me how this happened--got Blue Cross to say, we'll use the Blue Cross fee schedule for prisoners now, for their prisoners. Now I'm not sure how that works in my contract, and I've kind of asked them about that. But I said, okay, you want to do that, okay. Let's do that. What's interesting is, the people who run Tecumseh, who are kind of capitated for a certain portion of their business, they don't have a contract with us. They've sent patients to us, and they've refused to pay the bills. And I'm working with Randy Kohl, trying to get them to pay bills, which they've refused to do, and to cut a contract with us. That's the kind of hassle I'm going through to get them to pay bills, and I'm willing to negotiate with them, but they're, you know, we're playing this kind of a game. And I would just like to reiterate Roger's point about the issue of property taxes. You know, it's getting to a point with uninsured and all this other kind of stuff, like--you know, I've often wondered what it would be, from evaluation of all our stuff for property, compared to charity care and all that other kind of stuff, because I think we're not only close, we're going to start passing that number. And does it mean, if I say, fine, I'll pay property taxes, but don't send me any more charity care? Do we want that? I think

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you all know us. As hospitals and so forth, we're willing to work out bills. Just don't condemn us to the Medicaid fee schedule. You know we're already having enough problems with it. Just don't add to it. We're willing to negotiate with counties--I have done that. But of course, they want the easy, just give them Medicaid, as opposed to billed charges, and I agree. I don't--won't take billed charges--I will take less. But it's about working together. I can't tell you how many times I've had to argue with counties, to get lawyers involved, start to try and sue them, all that kind of stuff. And then when they figure out that legally they've got to pay, oh, then we want a discount, oh, then we want Medicaid, before they even figure out they have their obligation and so forth. That's when I need a little bit of leverage about this kind of arrangement, to keep the system honest and upfront, and I'm just asking you not to take that away. Thank you.

SENATOR JENSEN: Thank you for your reluctant and timid testimony. (Laughter)

BRAD SHER: Yeah, I know.

SENATOR JENSEN: Any questions from the committee? Senator Cunningham?

SENATOR CUNNINGHAM: Yes, Brad, you said you'd be willing to negotiate and Senator Johnson gave you a starting point that he might consider a negotiation point. How would you respond to that?

BRAD SHER: I don't think we need to mandate it legislatively. I think I and my compatriots at Alegent and the University and everybody else are perfectly capable of negotiating with the counties on our own. And there's a lot more to it than just the rate, about what's going on. It's how we work together; it's now we deal with the issues and so forth and so on, and I think EPCs is a great example about how we try to work together on that kind of issue. You know, my concern about--if we did it just strictly on EPCs, you know, if we suddenly...not only do we have this bad fee schedule from an in-patient perspective, but you know, it tiers down. And our friends at HHSS--friends, loosely said--at HHSS want \$450 rate now for services, so

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oh, let's just keep him in the acute care hospital at that rate, you know, until we can figure out what to do with him. Uh-uh. That doesn't give me any ability to--money talks with people--and force him to do something. If you put something and mandate legislatively and just come up with a number, that's not, you know, preventing them from just dumping on me. And that's my concern, and I've talked to the counties about it. And I said, I'm more than happy to work with you; we'll be the spillover and so forth, because nobody is adding any crisis beds, nobody is doing anything else. We've got the ER; it's so easy to drive them up, walk them in the door, and I'm on the hook, okay? But I've got to have something to prevent that from occurring over and over again. I don't think we need to do it legislatively.

SENATOR JENSEN: Senator Erdman?

SENATOR ERDMAN: Brad, in your negotiations with the counties, if you want to call them that, is it a case-by-case basis? Is there a time period where you negotiate with the county and say, for individuals with this condition, we'll...or is it individual basis?

BRAD SHER: We've generally done it individually. It doesn't happen very often, per se. I used to have to deal with--I had a full-blown contract with the state Department of Corrections, but now that they went to Blue Cross, that's just kind of dealt with that. We get a few of the cases that come in, and then they just call and we negotiate. And some of it depends upon what's going on with the patient, in terms of the services and what's happening, and the circumstances. You know, I think this is a good one of, you know, what's going on. There is a lot of testing that has to rule out stuff, when they're talking about chest pain and gastritis. Do they have a bleeding ulcer? Do they have--are they having a coronary condition, and so forth? So when we're doing CT scans and doing GI series and all that kind of stuff, that's a lot of service that goes on. There are other things that go on that might not...that might get the charges up quickly, that don't have as much of the intensity, so you can adjust the discounting that goes on. And those are all factors we take into account. Same thing happens with EPCs, what's going on with those circumstances and so forth. It just depends, so...

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SENATOR JENSEN: Senator Cunningham?

SENATOR CUNNINGHAM: Brad, you say it doesn't need to be in the statute, but what's to guarantee that all hospitals will work with the counties?

BRAD SHER: There's nothing to guarantee it. I think that you have to rely upon the integrity of the nonprofit community hospitals to do the right thing. And I think that, you know, we deal with Lancaster County all the time. You know, we got a lot going on together that, you know, Kerry Eagan and Mike Thurber and everybody call me up and, you know, let's deal with the issue and how to resolve it, okay? But remember, you know, the thing with EPCs, it took me a long time and dropping a \$900,000 bill on the city to get anybody's attention about paying the bills, okay? You know, it works both ways. You know, even if you mandated it, it still doesn't mean they're going to pay the bill. You're just going to say, well, they could use a fee schedule, if and when they decide that they want to pay it. And we've had a lot of tugging back and forth in certain cases. Is it our obligation, is it not? What's going on? We always try to find the other insurance; we always try to do anything to avoid the government paying it. But, you know, we're all paying for it somehow, and I've got sympathy for the counties. I understand their limited budgets, but you know, we've got the issues, too.

SENATOR CUNNINGHAM: But I mean, you yourself said that you didn't expect the full billed charges.

BRAD SHER: No, absolutely.

SENATOR CUNNINGHAM: I mean, you said that, so there must be a problem that somebody's bringing this bill, Senator Thompson's bringing the bill. There must be a problem that somebody won't negotiate out there.

BRAD SHER: Or they don't like having to pay higher than Medicaid, and I understand their point of, you know, well, if they were on GA, they'd be getting Medicaid. GA technically says--doesn't say that Medicaid is mandated. There's nothing in there that says that you have to take, as

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a provider, Medicaid from a legislation, or from a legal perspective.

SENATOR CUNNINGHAM: Do you have a figure...

BRAD SHER: We do that because that's kind of like the right thing to do, and we're, you know, we understand the county's obligation to just pay for the poor and so forth, and we're trying to do that. We've got a problem with the--Medicaid is easy, because let's just use Medicaid. They didn't come through and present Medicare, could have presented Medicare. That would pay a little higher. It still ain't great from our perspective, but they didn't present that as a fee schedule. They didn't present let's do Blue Cross or something else, or your best managed care. I mean, there's lots of other things that could have been. It's so easy just to go to Medicaid. And like I said, this committee, of all, knows that Medicaid has got no reality of costs or anything else.

SENATOR CUNNINGHAM: Do you have any kind of an average...in this deal you handed out, there's a huge difference between billed charges and Medicaid.

BRAD SHER: Um-hum.

SENATOR CUNNINGHAM: Do you have any idea, on average, what costs are, average over Medicaid payment?

BRAD SHER: Our costs average between 65 and 70 percent of our billed, our costs. Medicaid reimburses us around 42 percent.

SENATOR CUNNINGHAM: Okay, well, so then this must be a worst-case example on this particular one.

BRAD SHER: I'm just giving you--I literally just got called on this one. This is why I called up our head of reimbursing, because I had no idea what the billed was. I was just using it because I just got called within the last two weeks from--not from Seward County, the head of our patient financial services got called, and I just pulled it out. I have another case in here that, about the lien issue, that shows a 32 percent reimbursement, if we had

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taken Medicaid on that. It was an \$81,000 bill, and Medicaid would have paid \$26,000. You know, it depends. Part of the problem with some of this is because, either with the lien issue--if it's auto accident or whatever--those services are really--I mean those DRGs are really low paying, compared to the intensity of the service, whether it's an auto accident or something that happens with somebody.

SENATOR CUNNINGHAM: We'll get to talk about that...

BRAD SHER: And this is a good example.

SENATOR CUNNINGHAM: We'll talk about that one tomorrow.

BRAD SHER: Yeah. I mean, but, I mean, this is an example of--the folks in the jail aren't going to bring them unless something is really seriously going on, or they're concerned about something. And you know, I think this is just an example. Is it--are they always going to be 17 percent? No. But if they're 40 percent, well, that's not much better. They ain't gonna be much higher than that. I don't get lucky and get one at 80. That just doesn't happen.

SENATOR CUNNINGHAM: My suggestion would be to sit down and at least start negotiating that, if you could, because...

BRAD SHER: Well, I negotiate with Lancaster County. We've got negotiations trying to get underway, as soon as we figure out what's on the table kind of thing. And I negotiate with all the counties and so forth, and so do my compatriots in the different hospitals.

SENATOR CUNNINGHAM: Thank you, Brad.

SENATOR JENSEN: I'm just trying to understand how you do a lower GI series on a reluctant prisoner. (Laughter) That's for another day.

BRAD SHER: That's what sedation is for, Senator, you know. (Laughter)

SENATOR JENSEN: Senator Byars?

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SENATOR BYARS: Brad, I think the point needs to be made that the average citizen doesn't have any idea, when they get their hospital bill and they're privately insured or they're paying a portion of it themselves, I don't think they have any idea the amount of charity care of those people that walk into the ER, or walk into the hospital, because the hospital is obligated, through their mission statement to serve. And somewhere between 32 and 40 percent of all billable charges by the hospitals in this state are written off. And I don't think the average patient understands that. But it explains very clearly why your charges are here, because those people that have the ability to pay are having to pay that 32-40 percent.

BRAD SHER: Yeah. We, as you all know, we have a whacked out reimbursement system in this country. I mean, it's--because of Medicare, Medicaid, the insurance system, the whole thing is really squirrely. And you know, it's like trying to explain airline pricing, that's what I always akin it to. You get a--one day it's \$1,000 to go somewhere, and one day it's \$200. I mean, you just can't figure it out. I do think what is concerning people is, healthcare is expensive. It is expensive to do a CT scan, and GI series, and maintain a trauma center, and do mental health, and all that other kind of stuff. There's a lot of labor involved, there's a lot of technology and so forth. We have high expectations of service, and low expectations of payment. And that's what we're all struggling with, as you know in this committee.

SENATOR JENSEN: Thank you. Any other questions? Thank you for your testimony.

BRAD SHER: Thank you.

SENATOR JENSEN: Anyone else in opposition? Is there anyone else to speak in opposition after Mr. Sorensen? Any neutral testimony? Thank you.

RON SORENSEN: (Exhibit 5) Good afternoon, Senator Jensen and members of the Health and Human Services Committee. My name is Ron Sorensen, S-o-r-e-n-s-e-n. I'm the deputy administrator in the Division of Behavioral Health Services within the Department of Health and Human Services, and I'm

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here to testify in opposition to LB 204. Section 1 of LB 204 pertains to the purchase of medical care for individuals being held in jails and corrections, and that's not the focus of my testimony. I'm testifying really in relation to Sections 2, 3, and 4 of LB 204, which pertain to the purchase of medical services for persons being held in emergency custody under the Mental Health Commitment Act. Currently, the reimbursement rate provided for emergency custody only pays for the holding and emergency treatment associated with mental health services. The language of the bill would expand the responsibility to pay for the cost of other medical services not associated with behavioral issues. It's impossible to estimate what this cost could be, but it could be substantial, and could possibly draw funding away from badly needed mental health services. While Section 71-919 indicates that the counties are responsible for the costs of emergency care, the state pays the majority of the costs for emergency custody care. Funds are provided to the regions which are then responsible for purchasing these services from service providers such as hospitals. Although each region pays for these services differently, the rates paid are below Medicaid rates. The bill would require the providers of emergency custody services to be reimbursed at Medicaid rates. In those regions where the Division of Behavioral Health Services pays a daily rate, that rate includes the cost of physician care. By adopting Medicaid rates, this bill would increase the cost of the daily rate paid to the hospital and would add a daily physician rate on top of the hospital rate. LB 204 does not indicate who is responsible for these increased cost, but it seems likely the counties will be looking to the state for funding those services. In other regions, emergency custody services operate on what we call a "capacity contract" basis, with regions and providers having a set amount of funding for the year to serve all persons who need the service. This method of payment is critical to maintaining access to these services, particularly in more sparsely populated areas or where demand for services fluctuates. Unless a significant amount of funding is added to pay for this cost increase, it will reduce the capacity of these emergency custody facilities to serve people. The lack of capacity will translate into law enforcement officers having no place to take people in crisis. The Division of Behavioral Health Services and

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Medicaid are working together as a result of LB 1083 and the behavioral health reform, to integrate service definitions and develop more effective payment rate strategies. These strategies will provide more flexibility in meeting consumer needs and ensuring providers are paid appropriate rates for services. I'd also like to add that we were not asked to prepare a fiscal note for this bill, but we have started preparing some cost estimates, and if it would be appropriate, we would submit that to you. And so, with that, I thank you for your time, and would be happy to answer any questions.

SENATOR JENSEN: Thank you, Ron. Any questions for Mr. Sorensen from the committee? I don't see any. Thank you very much.

RON SORENSEN: Okay, thank you.

SENATOR JENSEN: Anyone else in opposition? Anyone in a neutral capacity? Senator Thompson, do you wish to close?

SENATOR THOMPSON: Yes, thank you, Mr. Chairman. First of all, Senator Erdman, to answer your question. This amends the section of law that deals with cities and counties, so it does not get to the issue of--I don't know how this impacts the Department of Correctional Services, although I can tell you that, in our budget review, the medical costs that have been saved there, in the--I mean, it's just night and day, from an appropriations perspective, because they've now got ability to deal with those costs. Just to get to the basic issues here, I think quite frankly I will say this bill was brought to me by Lancaster County, so--and this isn't the first time I've brought this bill for them. But the issues apply statewide. And I think the arguments have been made. They've been made by Mr. Sher and Senator Stuthman, I think you made the same point, and others, that the people who are paying that retail price are the one who are paying for all of the other charity cases, you said, Senator Byars. The counties are in the position where they pay retail price. They're at the mercy of the providers, an example of Mr. Sher negotiating with them on what they're going to pay. So everything that this comes down to is who's getting screwed in this deal. I mean, that's it. So if you believe that a governmental subdivision, who's caring

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for people that are largely the uninsured, who are largely people who would qualify for Medicaid if they weren't in their custody--whether that should be the rate that they get to pay from their taxpayers' dollars, or whether the counties have to continue to subsidize disproportionately, because their retail payers, unless they're lucky enough to convince a hospital--and I could just say that--Brad Sher and I, we've had many conversations and been on many committees, and boy, he'd be a tough negotiator to go up against, would just be my guess. He's good. But the counties are literally at the mercy of what the providers want to do. So this is a governmental issue. Should the counties have to pay retail? Do they have to pay that sticker price that the private pays--they're paying higher than private pays, if they can't get them to pay it. They're higher than private pay. Be very, very clear. And I think, Senator Cunningham, you brought it up. And the question comes up year after year, well, why don't you negotiate? Well, I wouldn't be sitting here with a bill if this problem was worked out. I don't think it can be worked out by just saying, well, let everybody sit down and eventually, you know, Kum Ba Yah, and everybody's going to be happy and walk away. They're not. This is about what is appropriate for a governmental subdivision to pay for people, if they weren't in their custody, would be Medicaid eligible. And the question came up about general assistance. I can tell you--and I'm way long from county government, but one of the things our general assistance director did was, we made sure if they were Medicaid eligible and we were paying that freight for them, that we got them eligible. I mean, that's what that person does. We try to get these people eligible. Mr. Sher said that they bill 60 percent--their costs are 60 percent of what they bill. Well, what they bill technically, without this law, is what counties would have to pay. And therefore, county government is paying for all the other charity care. It's how you want to slice the pie, and who gets stuck holding the bag. On this case, it's property tax. So I think it's reasonable. Your question about whether people are insured, you know--back 20 years ago when I was on the county board, you probably had more insured people in the county jails. Fewer people are insured. I agree 100 percent with Mr. Sher and the people who testified. This is a bigger problem than all of us. I mean, the

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medical billing is way out of whack. But the question that this bill raises is, is it appropriate for county government to be left in the situation of paying the highest price? And if you think that should come down to county government, county taxpayers, paying for all the indigent care, then leave it the way it is. It is not working by just letting the system go; it's putting a disproportionate share on the county government. And as far as the issues that were brought up by the department, we're--as we read this bill, this was dealing with the county costs--we'll clarify that. This is kind of news to us, so we'll work with that and get back to you on it. Thank you.

SENATOR JENSEN: Thank you. Senator, is this the identical bill that was heard in Judiciary last year?

SENATOR THOMPSON: Yes, except for this new section that the department...

SENATOR JENSEN: Did it get out of committee?

SENATOR THOMPSON: No. It was heard fairly late in the session. Generally speaking, these bills--if you want my advice--is that county government doesn't have the horses to be able to pull this bill. And it's because of the "who pays?" issue. And so the decision is, do you want county government to try and manage how in the heck they're going to continue to pay these kind of bills when they have no ability to negotiate? I mean, they are required to pay. In fact, if you talk to people who work with government, we're the best payor and the fastest payor out there for these kinds of things. Now when you get into some of our programs, I think it slows down, but at least when I was a county commissioner, they always thanked us for our prompt payment. So, you know--within 30 days. Now maybe other counties jerk them around, but this is just part of the bigger problem. The dumping issue that they're worried about--I mean, people are placed where they're placed. They're under the Board of Health and doctors, and where they go from there--it isn't like you can pull up and nobody ever checks in again. There are processes there, that we put in place. So I just think this is in fairness to the counties. So, thank you.

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SENATOR JENSEN: Thank you. Any questions from the committee? Thank you for your testimony.

SENATOR THOMPSON: Thank you.

SENATOR JENSEN: That will close the hearing on LB 204, and to open on LB 258. I believe Jessica is here to open for Senator Burling.

LB 258

JESSICA WATSON: (Exhibit 1) Thank you, Senator Jensen and members of the Health and Human Services Committee. My name is Jessica Watson, W-a-t-s-o-n, and I'm the legislative aide to Senator Carroll Burling, who represents the 33rd Legislative District. Senator Burling couldn't be with us today; he is on his way to a speedy recovery from bronchitis, and he asked me to respectfully request that you're very nice to me, because I'm really nervous. LB 258 was originally brought to Senator Burling's attention by Adams County officials, some of whom you will hear testimony from today. This bill deals with county assistance to individuals when they relocate across county lines. Currently, if a person relocates, their new county is able to bill their previous county for reimbursement of any general and medical assistance paid. So if a resident from Adam's County moves to Lancaster County, Lancaster County can legally bill Adams County for all general and medical assistance expenses, even if Lancaster County provides assistance at a higher level, or provides different benefits. And so the problem with this is that not every county offers the same kind of assistance, and they don't offer assistance at the same levels. LB 258 would prevent the new, receiving county from billing the previous or sending county for the following: Benefits that are not available in the original county, and a higher level of assistance than is available in the original county. Essentially, LB 258 would make it so that the previous sending county, or the county of legal settlement can only be billed for the assistance they offer. It doesn't limit the assistance that is available to recipients, but clearly designates where the payment for that assistance comes from. The fiscal note lists no specific impact on the state,

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although it mentions that it may save the counties some money in individual cases. Senator Burling introduced similar legislation last year, as you might remember. He's worked with NACO to find alternative solutions and is very willing to negotiate any committee ideas or amendments offered. Any questions?

SENATOR JENSEN: Thank you, Jessica. Any questions? Yes?

SENATOR BYARS: You know, my legislative aide appeared before the Insurance and Banking Committee a couple of weeks ago, and they have a rule in that committee that you can't ask a legislative aide questions.

JESSICA WATSON: I heard a rumor of that rule. (Laughter)

SENATOR JOHNSON: Have you gotten the tar and feathers off of her yet? (Laughter)

SENATOR BYARS: But Jessica, thank God we don't have that rule. (Laughter)

SENATOR JENSEN: Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. It's realistically not a question, but since I am the cosponsor of this bill, I would like to just mention why this bill is coming up, and what are some of the problems with what is going on in the communities right now, in the counties. There seem to be people that are receiving general assistance, they get into one county, they establish a settlement there, they find out which county pays more for certain general assistance, they go to that county to receive that, and then it's billed to the other county. We had the same instance in the county where I worked, because we were billed a higher rate than what our county paid, and that is what we felt wasn't the right thing to do. Where they originally established their residence, that should be the county's level of funding. Not at a higher rate at some other counties, because there a network of people on general assistance that use the system, and that is the reason why this is here. That's the reason why this bill is here. Thank you.

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SENATOR JENSEN: And thank you, Jessica.

JESSICA WATSON: Thank you.

SENATOR JENSEN: You are free to go. (Laughter) May I have the next proponent, please, in support?

CHRISELLA LEWIS: (Exhibit 2) I have copies of my testimony. My name is Chrisella Lewis. I'm county clerk in Adams County, Hastings, Nebraska. Adams County is a member of the Nebraska Association of County Officials, and it is my understanding NACO has taken a position to support LB 258. Senator Jensen and members of the Health and Human Services Committee, 57 counties in Nebraska contract with the Department of Health and Human Services for the administration of their county medical and general assistance programs. Thirty-six counties retain responsibility for administering their own programs. It is the responsibility of all counties to provide general assistance to all poor persons in the county who meet the requirements set out in statute and are eligible, based on standards set by the county boards in each county. Most counties use the guidelines developed jointly by NACO and HHS staff several years ago. However, the criteria for eligibility and the dollar amount of the assistance varies from county to county. Currently, the way the statute reads regarding determination of legal settlement is "Once a person obtains assistance in any county in the state, they remain an obligation to that county, wherever they receive assistance in the state. By striking the language in Section 2 of 68-115 and adding new language as Section 5, individuals would become residents of the county they move to after residing there six months. Prior to that time, any assistance received in the new county would be paid at the previous county of residence rates, based on conferring with that county. I believe last year there was testimony in opposition to the bill, that felt that some individuals would be denied services for six months, however, this is not the case. This bill only changes the length of time that the former resident county is responsible for those services. If the individual remains in the new county longer than six months, they would become residents of the new county. One of the arguments posed in opposition last year was that individuals needing medical assistance would

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travel to the larger county solely for the medical benefits. If you would stop to consider the type of individuals needing this kind of assistance, they are not necessarily those individuals who would have the economic means to relocate solely for better medical assistance. I don't believe that the opposition was able to statistically substantiate this claim last year. I realize that benefits in larger counties are probably greater than those available in smaller counties, but you need to consider the fact that they also have bigger resources to draw on to enable greater benefits to the medically needy. This is definitely an unfair advantage to the smaller resident counties, who must pay for benefits approved by another county granting the assistance. County burials are currently being handled in that manner, as the county of residence of the deceased is the county that receives the request for the assistance and makes the determination as to eligibility. There is no reason why requests for rent, medical, or transportation assistance can't be made in the same manner. The person making the request would not be inconvenienced, especially with the electronic age we live in today, with the conveniences of e-mail and fax machines. It makes it very difficult for counties to budget expenses for general assistance when other counties approve assistance payments based on their guidelines and rates, and then bill the resident county for the assistance granted. I have heard of some counties who provide just enough money for gas or repairs to people in need so they will move on to another county or state, thereby removing them from their county and qualifying for general assistance. Recently we had a situation in Adams County where a person had been on food stamps for three months in a neighboring county and then transported to Crossroads in Hastings, where he eventually established residency in Adams County and now is their responsibility, not only for general assistance, but also for services at the Hastings Regional Center. Perhaps this problem will correct itself as the mental health reform bill establishes more community-based services. Last year opponents to this bill testified that they have many nonresident persons receiving medical assistance through their county GA program, since their community has a lot of advanced medical treatments available, and they did not want to be held responsible for paying these costs. I say if they are the county granting the assistance under their

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guidelines and eligibility requirements without contacting the resident county, then they should be held accountable for the costs. Our GA administrator in the Department of Health and Human Services has told me that under Adams County's guidelines, individuals will qualify for Medicaid assistance at the state level, if they have costly, life-threatening medical needs. My personal thoughts are that the whole general assistance program needs to be run by the state. I don't see, with federal and state welfare programs available to all citizens of the state, the need for the county to have any involvement in general assistance. These statutes were written decades ago, when the counties had poor farms and institutions for indigent persons. The only thing that county general assistance does for people today is to confuse them, because they don't know what agency they are to apply for whatever assistance they need. I would like to add in closing that opponents to LB 258 will tell you that if assistance is granted to an individual who is a nonresident, the resident county only has to reimburse in the amount that would have been granted by the resident county. If you look at the statutes, the resident county is required to be responsible for all assistance that has been granted, the way they are currently written. It does not state that the county only pays based on their guidelines. If the resident county will only pay for half the assistance provided, based on their guidelines, who pays the rest? Based on this information and these reasons, I am asking you to support LB 258 and move it to the floor of the Legislature and help counties get a better handle on their budgets and general assistance expenses. And I'd be willing to answer any questions, if the committee has any.

SENATOR JENSEN: Thanks, Chrisella. Any questions from the committee? I don't see any. Thank you for your testimony.

CHRISSELLA LEWIS: Thank you.

SENATOR JENSEN: Next testifier in support?

BETH BAZYN FERRELL: Good afternoon, Chairman Jensen, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County

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Officials. We're appearing in support of the bill, particularly in support of the concept of looking at the general assistance programs and trying to determine how best to address it. We worked with Senator Burling and his staff on this bill over the course of the summer, and we had contact with some other states to look at how they handled this process. In Alaska and Maryland, the state handles the program. They finance it themselves. In Virginia, some of the services are provided by the state, but they are administered by the county on the state's behalf. Now, that would be great. We would love to have the state do that for us, and get out of the general assistance field altogether. Realistically, I don't know if that's necessarily a possibility, but, you know, it is that way in at least some other states. A couple of other examples where the counties are responsible for it--in Nevada they look at residency with an eye on intent to reside. If it can be shown that a person resides physically, or they intend to reside in a county, then that county becomes responsible for providing assistance. The individual is responsible for providing information to the county board about determining their intent to reside in a county. Now that may or may not be a good standard; it would be easy to sort of pass the buck, and pass an individual back and forth, because they don't intend to reside in our county, but maybe they intend to reside in yours. An example of another state; in North Dakota there is a limit on what each county appropriates for general assistance, and once that is met, that's sort of the standard for what's available. And that's only used as a stopgap, until the individual can become eligible for Medicaid, or establish their eligibility for food stamps, or whatever the case might be. We look forward to working with Senator Burling and his staff to help figure out what we can do to make this situation better, to resolve it hopefully in a way that will benefit all of the counties that are involved. I would be happy to take any questions.

SENATOR JENSEN: Thank you. Are there any questions from the committee?

SENATOR JOHNSON: One quick question.

SENATOR JENSEN: Yes, Senator Johnson.

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SENATOR JOHNSON: If you were coming from another state, are there counties where it's advantageous to move into and others that you would want to avoid?

BETH FERRELL: Anecdotally there is. I don't know that there is any hard evidence that there is, but Kimball being the Greyhound stop, certainly there are a lot of stories about that kind of thing.

SENATOR JOHNSON: Okay, thanks.

SENATOR ERDMAN: Was a Greyhound stop.

BETH FERRELL: Right.

SENATOR JENSEN: Any other questions? Yes, Senator Byars?

SENATOR BYARS: Just a couple of comments. I don't think, for those of you that can remember back, not that many years ago--a little over 20--when we were dealing with the same issue of Medicaid, and when the counties were picking up the Medicaid share instead of the state. And we had an issue in Gage County, where with Beatrice Developmental Center, as young people were moved into the institution by their parents. Gage County became their county of residence, and the county was obligated to pay for that portion of Medicaid, and this is not unlike that. And as I'm hearing these arguments on these last several bills, we all know what the situation is with Lancaster County relative to pulling their funding on DD, on the 10 percent that they have obligated themselves over the years, and so it's an issue we have to deal with. And I guess it comes to the point of where is it that the state is obligated for everything, and what is the responsibility of the counties to their citizens, the cities to their citizens? And it's very easy to come to us and say, pay for all of it. It comes out of a different pot, but the citizens of the state of Nebraska are still paying for it, just paying for it in a different way. But it seems to be the tenor of the day that the state accept the responsibility for paying for everything. That does trouble me somewhat about the obligations of local government. By the way, did I miss...did you take a position on LB 204?

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BETH FERRELL: Yes, we did. We supported that bill.

SENATOR BYARS: Thank you.

SENATOR JENSEN: Any other questions? Thank you for your testimony. Anyone else wish to testify in support? Anyone in opposition? How many others wish to testify on this bill? One, two, thank you.

KERRY EAGAN: (Exhibit 3) Good afternoon again, Senator Jensen and members of the committee, and Jeffery Santema. I always thought it was Jeff Santema, but I guess your name is Jeffery, so good afternoon, Jeffery. I'm handing out a letter that will summarize most of my testimony, so I'll try to be very brief, and maybe I can spend more of my time answering specific questions, if any questions come to mind. The primary concern that Lancaster County would have with this bill is that it is a shift of the responsibilities of one county to another, and I think the bigger counties, where costs are higher, medical expenses are higher, living costs are higher, food costs are higher, are going to have general assistance plans that probably provide benefits at a higher level. However, you have to remember that general assistance is not a get-rich program. It's a program of last resort, intended to maintain a minimum level of human decency. So we're not out there creating benefits with the intent of outdoing another place or attracting other people to come and get rich off our wonderful general assistance program; in fact, it's just the opposite. It's a program of last resort, and it's intended to be there, as long as the counties are going to have responsibility for general assistance. Each county can have its own plan, and it sounds like there's--I think the statistic was 56 counties have the Health and Human Services plan. But you have the possibility that you can have 93 separate plans for general assistance, which means there can be different levels of service and entitlement. And if this bill passes, counties are going to have the incentive to provide even less, to not take care of the minimum needs of their own citizens, and literally force them to go to another county to get basic human needs taken care of that for some reason aren't covered under another program. We think that's an unfair shift. With regard to medical, specifically, in the Lancaster County plan, if a person enters Lancaster County

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from another county with the specific intent of getting medical general assistance, we deny it. And that's right in the plan, that if you come here just for that purpose, it is denied. The only medical that we do provide is for a life-threatening injury. You're involved in an automobile crash or something to that effect; you need immediate medical assistance. That's what our plan provides for, because it's a program of last resort, again. We're not dangling a carrot or enticing other people to come to get medical care here; it's just not the intent of the plan. It's, again, a last resort. I haven't heard any real statistics; I think a lot of the evidence is anecdotally that we're breaking the accounts of other counties, but we're not doing that. And I would like to see some specific statistics. We're just asking other counties to pay for their residents, because by statute, they are responsible. There has been one case I'd just provide, to the county that I've been involved with. I am the hearing officer for Lancaster County, so I hear all the general assistance appeals, where our case workers have denied them. We had a case where a Dawson County resident came to Lancaster County for the specific purpose of getting alcohol and drug treatment, and then applied for general assistance and wanted all of his day-to-day medical care paid for by Lancaster County. And we denied the request. Instead we said, let's work together with Dawson County, that if they want their resident to stay in Lancaster County, then they need to address their medical needs that they've raised in that application and apply it. We were perfectly willing to let the person stay in the county, of course. You can't order someone to move, although under the existing legislation now, if we provide assistance to another resident, we can call that county and say, come get your resident, and get him out of our county, which we don't think is very civilized. So we would like to work together with the other counties. But what we don't want to see is a shift from the obligations of other counties to Lancaster County, and that's going to be the primary effect of LB 258, that their residents become our residents. That's aggravated by the fact that the time that the person is receiving general assistance, no longer tolls the residency statute, I guess; otherwise, you would need to be in a county continuously for a year. You don't count if you're in a penal institution or a mental institution, or receiving

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public assistance, as part of that process. This bill, LB 258, would remove that, and so the person could come from another county, we pay for their general assistance, we don't get reimbursed from the other county, and then they establish residency in our county. And as long as the counties are going to be primarily responsible for general assistance, we think each individual county needs to be responsible for its residents. If that means paying at a slightly higher rate, because we've provided assistance to one of their residents, we think that's fair. So I'd answer any questions.

SENATOR JENSEN: Thank you. Any questions from the committee? How close do you check on residency? I mean, there's that six-month window or time limit. Do you ask them, or...

KERRY EAGAN: Yes, we check very closely on residency, and we work with Health and Human Services in that regard, because there's often information that they have to help us establish that. In some cases it gets very confusing, because people might be moving from county to county, usually in the context of receiving treatment at a specific type of facility; it's usually an in-patient drug treatment program or something like that. So it does get very complicated. We had one where the person had moved away, that came to our county from another county, stayed here for over a year, then moved back to the county of residence and stayed for 11 months and 20 days--just short of a year--but it didn't change residency back, and we ended up absorbing the cost on that one, which was quite high. But we do, we check very closely. We try to know where every person is from.

SENATOR JENSEN: Okay, thank you. Any other questions? Thank you for your testimony.

KERRY EAGAN: Thank you, Senator.

SENATOR JENSEN: Anyone else in opposition, please?

JOE KOHOUT: (Exhibit 4) Chairman Jensen, members of the committee, my name is Joe Kohout, K-o-h-o-u t, appearing today on behalf of Douglas County, Nebraska, obviously for

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the similar reasons that Mr. Eagan just laid out very succinctly. We also oppose LB 258. We had Ms. Kristen Lynch here for a while; you may have seen her and she was prepared to testify on this, but due to the hour was unable to do so. I would avail myself to any questions, but she is much more familiar with this than I, so the question would be bounced back to her, anyway. So...

SENATOR JENSEN: Any questions? Seeing none, thank you for your testimony. Next testifier, and I believe, last testifier?

REBECCA GOULD: (Exhibit 5) Good afternoon, Mr. Chairman, members of the committee. My name is Rebecca Gould, and I'm a staff attorney at the Nebraska Appleseed Center for Law in the Public Interest. Nebraska Appleseed is committed to protecting the rights of low income families and children in Nebraska. As part of our work, we track policy changes to welfare programs such as the general assistance. And I'm here today to speak in opposition to LB 258. County general assistance programs are the last line of defense for hundreds of low income Nebraskans who generally do not qualify for Medicaid or ADC because they're not aged, blind, or disabled, or they do not have dependent children. The income guideline for most general assistance programs is set at 50 percent of the federal poverty level, which is approximately \$4,600 a year, or \$388 a month for a household of one. For Nebraskans this poor, general assistance provides help with rent, utilities, and medical care. LB 258, if passed, would create large holes in this essential safety-net program. This legislation would restrict access to medically necessary services for many Nebraskans, and especially those in rural communities, which are generally less likely to provide specialized medical care. Under the current system, the county of legal settlement is obligated to cover the cost of medical treatment, no matter where the treatment is provided within the state. LB 258 does nothing to limit the needs for these medical services; it simply shifts the cost of that care from one county to another. All of Nebraska's counties are facing strained county budgets, due to the economic downturn. Our concern is that if all the costs are shifted to a few counties, those counties will no longer be able to provide quality care to anyone. It is important to remember

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when we're talking about healthcare where the need for services does not go away, simply because a program stops providing care. Without general assistance funds to pay for care, Nebraskans would no longer be able to seek preventative treatments and will forego care until their condition is so serious they must visit emergency rooms. This results in higher costs for care and will need to local property taxpayers, hospitals, and clinics absorbing these costs. We also have serious legal concerns about this legislation. In all federal public benefits programs, the United States Supreme Court has established that states are prohibited from creating requirements that restrict or limit benefits for people who choose to move to another state. A number of states and federal circuit courts have looked at these issues on an intrastate basis, as well, and have found limiting benefits, based on a person's county of origin, to be an unconstitutional restraint on the right to travel. What LB 258 seeks to do is to restrict general assistance benefits, based on a person's county of origin, and therefore, could be subject to a constitutional challenge. Nebraska should be proud that it has created a system that ensures the poorest of the poor can receive help when they have nowhere else to turn. LB 258 would be the first step in destroying that system, and therefore we ask that this committee not advance LB 258. And I'd be happy to take any questions.

SENATOR JENSEN: Thank you for your testimony. Any questions from the committee? Yes, Senator Stuthman?

SENATOR STUTHMAN: Thank you, Senator Jensen. Rebecca, the people that are on general assistance, how long do they stay on general assistance? Are they on it for years, or months, or what have you found, with your operation?

REBECCA GOULD: The clients that we've worked with, for the most part, are not on general assistance for a terribly long period of time. It's usually people who are either in transition to be getting to a point where they will qualify for Medicaid, for example. Maybe they're applying for disability benefits, or they are people who have just come out of prison and are transitioning back into the community. And so they're on for a period of time until they get employment, and then go off. The income guideline for this

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program is so low; if you get a part-time job you're going to be taken off the program. So most people are not on for very long, and again, as the members of the counties told you, the benefits packages are very limited. Nobody is living comfortably off of general assistance benefits by any means.

SENATOR STUTHMAN: Thank you.

REBECCA GOULD: Um-hum.

SENATOR JENSEN: Yes, Senator Erdman?

SENATOR ERDMAN: Rebecca, thank you for your testimony. Based on your testimony and the Supreme Court rulings, it would appear that Nevada has an unconstitutional law. Do you know anything about that?

REBECCA GOULD: I don't know the details of Nevada's law, and again, I think the concern is when you're tying benefits--what kinds of benefits are going to be available--to what county you come from or what county you're going to, you run the risk of restraining people's right to travel. And a case that sounds to be similar to what might happen here would be dealing with California, and this is on an interstate basis. But right after the TANF program went into effect, California wanted to restrict benefits for people coming into the state of California, to what they would have received in the state that they were coming from. And that law was struck down by the United States Supreme Court. And I think what we're talking about here is something very similar, where Lancaster County could say, well, we're not going to get reimbursed from your county of legal settlement for these services, so if you're coming from that county, we're only going to provide you the services that they provide. And in that kind of a situation, it sounds very much like what happened in California. And we would have the same kinds of legal concerns.

SENATOR JENSEN: Thank you, Rebecca. Any questions? I don't see any more. Thank you. Any neutral testimony? If not, that will close the hearing on LB 258, and hearings for this afternoon.